

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1279

---

IN THE SENATE OF THE UNITED STATES

MAY 12, 2005

Received; read twice and referred to the Committee on the Judiciary

---

## AN ACT

To amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Gang Deterrence and  
3 Community Protection Act of 2005”.

4 **TITLE I—CRIMINAL LAW RE-**  
5 **FORMS AND ENHANCED PEN-**  
6 **ALTIES TO DETER AND PUN-**  
7 **ISH ILLEGAL STREET GANG**  
8 **ACTIVITY AND RELATED**  
9 **CRIMINAL LAW REFORMS**

10 **SEC. 101. REVISION AND EXTENSION OF PENALTIES RE-**  
11 **LATED TO CRIMINAL STREET GANG ACTIV-**  
12 **ITY.**

13 (a) IN GENERAL.—Chapter 26 of title 18, United  
14 States Code, is amended to read as follows:

15 **“CHAPTER 26—CRIMINAL STREET GANGS**

“Sec.

“521. Criminal street gang prosecutions.

16 **“§ 521. Criminal street gang prosecutions**

17 “(a) STREET GANG CRIME.—Whoever commits, or  
18 conspires, threatens or attempts to commit, a gang crime  
19 for the purpose of furthering the activities of a criminal  
20 street gang, or gaining entrance to or maintaining or in-  
21 creasing position in such a gang, shall, in addition to being  
22 subject to a fine under this title—

23 “(1) if the gang crime results in the death of  
24 any person, be sentenced to death or life in prison;

1           “(2) if the gang crime is kidnapping, aggra-  
2 vated sexual abuse, or maiming, be imprisoned for  
3 life or any term of years not less than 30;

4           “(3) if the gang crime is assault resulting in se-  
5 rious bodily injury (as defined in section 1365), be  
6 imprisoned for life or any term of years not less  
7 than 20; and

8           “(4) in any other case, be imprisoned for life or  
9 for any term of years not less than 10.

10          “(b) FORFEITURE.—

11           “(1) IN GENERAL.—The court, in imposing sen-  
12 tence on any person convicted of a violation of this  
13 section, shall order, in addition to any other sen-  
14 tence imposed and irrespective of any provision of  
15 State law, that such person shall forfeit to the  
16 United States such person’s interest in—

17           “(A) any property used, or intended to be  
18 used, in any manner or part, to commit, or to  
19 facilitate the commission of, the violation; and

20           “(B) any property constituting, or derived  
21 from, any proceeds the person obtained, directly  
22 or indirectly, as a result of the violation.

23           “(2) APPLICATION OF CONTROLLED SUB-  
24 STANCES ACT.—Subsections (b), (c), (e), (f), (g),  
25 (h), (i), (j), (k), (l), (m), (n), (o), and (p) of section

1 413 of the Controlled Substances Act (21 U.S.C.  
2 853) shall apply to a forfeiture under this section as  
3 though it were a forfeiture under that section.

4 “(c) DEFINITIONS.—The following definitions apply  
5 in this section:

6 “(1) CRIMINAL STREET GANG.—The term  
7 ‘criminal street gang’ means a formal or informal  
8 group or association of 3 or more individuals, who  
9 commit 2 or more gang crimes (one of which is a  
10 crime of violence other than an offense punishable  
11 under subparagraph (A), (B), or (C) of section  
12 401(b)(1) of the Controlled Substances Act), in 2 or  
13 more separate criminal episodes, in relation to the  
14 group or association, if any of the activities of the  
15 criminal street gang affects interstate or foreign  
16 commerce.

17 “(2) GANG CRIME.—The term ‘gang crime’  
18 means conduct constituting any Federal or State  
19 crime, punishable by imprisonment for more than  
20 one year, in any of the following categories:

21 “(A) A crime of violence (other than a  
22 crime of violence against the property of an-  
23 other).

1           “(B) A crime involving obstruction of jus-  
2           tice, tampering with or retaliating against a  
3           witness, victim, or informant, or burglary.

4           “(C) A crime involving the manufacturing,  
5           importing, distributing, possessing with intent  
6           to distribute, or otherwise dealing in a con-  
7           trolled substance or listed chemical (as those  
8           terms are defined in section 102 of the Con-  
9           trolled Substances Act (21 U.S.C. 802)).

10          “(D) Any conduct punishable under sec-  
11          tion 844 (relating to explosive materials), sub-  
12          section (a)(1), (d), (g)(1) (where the underlying  
13          conviction is a violent felony (as defined in sec-  
14          tion 924(e)(2)(B) of this title) or is a serious  
15          drug offense (as defined in section  
16          924(e)(2)(A))), (g)(2), (g)(3), (g)(4), (g)(5),  
17          (g)(8), (g)(9), (i), (j), (k), (n), (o), (p), (q), (u),  
18          or (x) of section 922 (relating to unlawful acts),  
19          or subsection (b), (c), (g), (h), (k), (l), (m), or  
20          (n) of section 924 (relating to penalties), sec-  
21          tion 930 (relating to possession of firearms and  
22          dangerous weapons in Federal facilities), sec-  
23          tion 931 (relating to purchase, ownership, or  
24          possession of body armor by violent felons), sec-  
25          tions 1028 and 1029 (relating to fraud and re-

1           lated activity in connection with identification  
2           documents or access devices), section 1952 (re-  
3           lating to interstate and foreign travel or trans-  
4           portation in aid of racketeering enterprises),  
5           section 1956 (relating to the laundering of  
6           monetary instruments), section 1957 (relating  
7           to engaging in monetary transactions in prop-  
8           erty derived from specified unlawful activity), or  
9           sections 2312 through 2315 (relating to inter-  
10          state transportation of stolen motor vehicles or  
11          stolen property).

12                   “(E) Any conduct punishable under section  
13           274 (relating to bringing in and harboring cer-  
14           tain aliens), section 277 (relating to aiding or  
15           assisting certain aliens to enter the United  
16           States), or section 278 (relating to importation  
17           of alien for immoral purpose) of the Immigra-  
18           tion and Nationality Act.

19                   “(3) AGGRAVATED SEXUAL ABUSE.—The term  
20           ‘aggravated sexual abuse’ means an offense that, if  
21           committed in the special maritime and territorial ju-  
22           risdiction would be an offense under section 2241(a).

23                   “(4) STATE.—The term ‘State’ means each of  
24           the several States of the United States, the District

1 of Columbia, and any commonwealth, territory, or  
2 possession of the United States.”.

3 (b) AMENDMENT RELATING TO PRIORITY OF FOR-  
4 FEITURE OVER ORDERS FOR RESTITUTION.—Section  
5 3663(c)(4) of title 18, United States Code, is amended  
6 by striking “chapter 46 or chapter 96 of this title” and  
7 inserting “section 521, under chapter 46 or 96,”.

8 (c) MONEY LAUNDERING.—Section 1956(e)(7)(D) of  
9 title 18, United States Code, is amended by inserting “,  
10 section 521 (relating to criminal street gang prosecu-  
11 tions)” before “, section 541”.

12 **SEC. 102. INCREASED PENALTIES FOR INTERSTATE AND**  
13 **FOREIGN TRAVEL OR TRANSPORTATION IN**  
14 **AID OF RACKETEERING.**

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

17 (1) in subsection (a), by striking “perform” and  
18 all that follows through the end of the subsection  
19 and inserting “perform an act described in para-  
20 graph (1), (2), or (3), or conspires to do so, shall  
21 be punished as provided in subsection (d).”; and

22 (2) by adding at the end following:

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

1           “(1) in the case of a violation of paragraph (1)  
2           or (3), a fine under this title and imprisonment for  
3           not less than 5 nor more than 20 years; and

4           “(2) in the case of a violation of paragraph (2),  
5           a fine under this title and imprisonment for not less  
6           than 10 nor more than 30 years, but if death results  
7           the offender shall be sentenced to death, or to im-  
8           prisonment for any term of years or for life.”.

9   **SEC. 103. AMENDMENTS RELATING TO VIOLENT CRIME.**

10          (a) CARJACKING.—Section 2119 of title 18, United  
11         States Code, is amended—

12                 (1) by striking “, with the intent to cause death  
13                 or serious bodily harm” in the matter preceding  
14                 paragraph (1);

15                 (2) by inserting “or conspires” after “at-  
16                 tempts” in the matter preceding paragraph (1);

17                 (3) by striking “15” and inserting “20” in  
18                 paragraph (1); and

19                 (4) by striking “or imprisoned not more than  
20                 25 years, or both” and inserting “and imprisoned  
21                 not less than 10 years nor more than 30 years” in  
22                 paragraph (2).

23          (b) CLARIFICATION OF ILLEGAL GUN TRANSFERS TO  
24         COMMIT DRUG TRAFFICKING CRIME OR CRIMES OF VIO-



1 LENCE.—Section 924(h) of title 18, United States Code,  
2 is amended to read as follows:

3 “(h) Whoever, in or affecting interstate or foreign  
4 commerce, knowingly transfers a firearm, knowing or in-  
5 tending that the firearm will be used to commit, or pos-  
6 sessed in furtherance of, a crime of violence or drug traf-  
7 ficking crime (as defined in subsection (c)(2)), shall be  
8 fined under this title and imprisoned not less than 5 years  
9 nor more than 20 years.”.

10 (c) AMENDMENT OF SPECIAL SENTENCING PROVI-  
11 SION RELATING TO LIMITATIONS ON CRIMINAL ASSOCIA-  
12 TION.—Section 3582(d) of title 18, United States Code,  
13 is amended—

14 (1) by inserting “section 521 (criminal street  
15 gang prosecutions), in” after “felony set forth in”;

16 (2) by striking “specified person, other than his  
17 attorney, upon” and inserting “specified person  
18 upon”; and

19 (3) by inserting “a criminal street gang or” be-  
20 fore “an illegal enterprise”.

21 (d) CONSPIRACY PENALTY.—Section 371 of title 18,  
22 United States Code, is amended by striking “five” and  
23 inserting “20”.

1 **SEC. 104. INCREASED PENALTIES FOR USE OF INTERSTATE**  
2 **COMMERCE FACILITIES IN THE COMMISSION**  
3 **OF MURDER-FOR-HIRE AND OTHER FELONY**  
4 **CRIMES OF VIOLENCE.**

5 (a) IN GENERAL.—Section 1958 of title 18, United  
6 States Code, is amended—

7 (1) by striking the section heading and insert-  
8 ing the following:

9 **“§ 1958. Use of interstate commerce facilities in the**  
10 **commission of murder-for-hire and other**  
11 **felony crimes of violence”;**

12 (2) in subsection (a), by inserting “or other  
13 crime of violence, punishable by imprisonment for  
14 more than one year,” after “intent that a murder”;  
15 and

16 (3) in subsection (a), by striking “shall be  
17 fined” the first place it appears and all that follows  
18 through the end of such subsection and inserting the  
19 following:

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

22 “(1) if the crime of violence or conspiracy re-  
23 sults in the death of any person, be sentenced to  
24 death or life in prison;

25 “(2) if the crime of violence is kidnapping, ag-  
26 gravated sexual abuse (as defined in section 521), or

1 maiming, or a conspiracy to commit such a crime of  
2 violence, be imprisoned for life or any term of years  
3 not less than 30;

4 “(3) if the crime of violence is an assault, or a  
5 conspiracy to assault, that results in serious bodily  
6 injury (as defined in section 1365), be imprisoned  
7 for life or any term of years not less than 20; and

8 “(4) in any other case, be imprisoned for life or  
9 for any term of years not less than 10.”.

10 (b) CLERICAL AMENDMENT.—The item relating to  
11 section 1958 in the table of sections at the beginning of  
12 chapter 95 of title 18, United States Code, is amended  
13 to read as follows:

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

14 **SEC. 105. INCREASED PENALTIES FOR VIOLENT CRIMES IN**  
15 **AID OF RACKETEERING ACTIVITY.**

16 (a) OFFENSE.—Section 1959(a) of title 18, United  
17 States Code, is amended to read as follows:

18 “(a) Whoever commits, or conspires, threatens, or at-  
19 tempts to commit, a crime of violence, as consideration  
20 for the receipt of, or as consideration for a promise or  
21 agreement to pay, anything of pecuniary value from an  
22 enterprise engaged in racketeering activity, or for the pur-  
23 pose of furthering the activities of an enterprise engaged  
24 in racketeering activity, or for the purpose of gaining en-

1 trance to or maintaining or increasing position in, such  
2 an enterprise, shall, unless the death penalty is otherwise  
3 imposed, in addition and consecutive to the punishment  
4 provided for any other violation of this chapter and in ad-  
5 dition to being subject to a fine under this title—

6           “(1) if the crime of violence results in the death  
7 of any person, be sentenced to death or life in pris-  
8 on;

9           “(2) if the crime of violence is kidnapping, ag-  
10 gravated sexual abuse (as defined in section 521), or  
11 maiming, be imprisoned for life or any term of years  
12 not less than 30;

13           “(3) if the crime of violence is assault resulting  
14 in serious bodily injury (as defined in section 1365),  
15 be imprisoned for life or for any term of years not  
16 less than 20; and

17           “(4) in any other case, be imprisoned for life or  
18 for any term of years not less than 10.”.

19       (b) VENUE.—Section 1959 of title 18, United States  
20 Code, is amended by adding at the end the following:

21           “(c) A prosecution for a violation of this section may  
22 be brought in—

23           “(1) the judicial district in which the crime of  
24 violence occurred; or

1           “(2) any judicial district in which racketeering  
2           activity of the enterprise occurred.”.

3 **SEC. 106. MURDER AND OTHER VIOLENT CRIMES COM-**  
4           **MITTED DURING AND IN RELATION TO A**  
5           **DRUG TRAFFICKING CRIME.**

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

9           “MURDER AND OTHER VIOLENT CRIMES COMMITTED  
10           DURING AND IN RELATION TO A DRUG TRAFFICKING  
11           CRIME

12           “SEC. 424. (a) IN GENERAL.—Whoever commits, or  
13           conspires, or attempts to commit, a crime of violence dur-  
14           ing and in relation to a drug trafficking crime, shall, un-  
15           less the death penalty is otherwise imposed, in addition  
16           and consecutive to the punishment provided for the drug  
17           trafficking crime and in addition to being subject to a fine  
18           under this title—

19           “(1) if the crime of violence results in the death  
20           of any person, be sentenced to death or life in pris-  
21           on;

22           “(2) if the crime of violence is kidnapping, ag-  
23           gravated sexual abuse (as defined in section 521), or  
24           maiming, be imprisoned for life or any term of years  
25           not less than 30;

1           “(3) if the crime of violence is assault resulting  
2           in serious bodily injury (as defined in section 1365),  
3           be imprisoned for life or any term of years not less  
4           than 20; and

5           “(4) in any other case, be imprisoned for life or  
6           for any term of years not less than 10.

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

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

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

13          “(c) DEFINITIONS.—As used in this section—

14          “(1) the term ‘crime of violence’ has the mean-  
15          ing given that term in section 16 of title 18, United  
16          States Code; and

17          “(2) the term ‘drug trafficking crime’ has the  
18          meaning given that term in section 924(c)(2) of title  
19          18, United States Code.”.

20          (b) CLERICAL AMENDMENT.—The table of contents  
21          for the Comprehensive Drug Abuse Prevention and Con-  
22          trol Act of 1970 is amended by inserting after the item  
23          relating to section 423 the following:

          “Sec. 424. Murder and other violent crimes committed during and in relation  
          to a drug trafficking crime.”.

1 **SEC. 107. MULTIPLE INTERSTATE MURDER.**

2 (a) OFFENSE.—Chapter 51 of title 18, United States  
3 Code, is amended by adding at the end the following new  
4 section:

5 **“§ 1123. Use of interstate commerce facilities in the**  
6 **commission of multiple murder**

7 “(a) IN GENERAL.—Whoever travels in or causes an-  
8 other (including the intended victim) to travel in interstate  
9 or foreign commerce, or uses or causes another (including  
10 the intended victim) to use the mail or any facility of inter-  
11 state or foreign commerce, or who conspires or attempts  
12 to do so, with intent that 2 or more intentional homicides  
13 be committed in violation of the laws of any State or the  
14 United States shall, in addition to being subject to a fine  
15 under this title—

16 “(1) if the offense results in the death of any  
17 person, be sentenced to death or life in prison;

18 “(2) if the offense results in serious bodily in-  
19 jury (as defined in section 1365), be imprisoned for  
20 life or any term of years not less than 20; and

21 “(3) in any other case, be imprisoned for life or  
22 for any term of years not less than 10.

23 “(b) DEFINITION.—The term ‘State’ means each of  
24 the several States of the United States, the District of  
25 Columbia, and any commonwealth, territory, or possession  
26 of the United States.”.

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

“1123. Use of interstate commerce facilities in the commission of multiple murder.”.

4 **SEC. 108. ADDITIONAL RACKETEERING ACTIVITY.**

5 Section 1961(1) of title 18, United States Code, is  
 6 amended—

7 (1) in subparagraph (A), by inserting “, or  
 8 would have been so chargeable if the act or threat  
 9 had not been committed in Indian country (as de-  
 10 fined in section 1151) or in any other area of exclu-  
 11 sive Federal jurisdiction,” after “chargeable under  
 12 State law”; and

13 (2) in subparagraph (B), by inserting “section  
 14 1123 (relating to interstate murder),” after “section  
 15 1084 (relating to the transmission of gambling in-  
 16 formation),”.

17 **SEC. 109. EXPANSION OF REBUTTABLE PRESUMPTION**  
 18 **AGAINST RELEASE OF PERSONS CHARGED**  
 19 **WITH FIREARMS OFFENSES.**

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

22 (1) in subsection (e), in the matter following  
 23 paragraph (3), by inserting “an offense under sub-  
 24 section (g)(1) (where the underlying conviction is a



1 drug trafficking crime (as defined in section  
2 924(c)), (g)(2), (g)(4), (g)(5), (g)(8), or (g)(9) of  
3 section 922, or a crime of violence,” after “that the  
4 person committed”; and

5 (2) in subsection (g), by amending paragraph  
6 (1) to read as follows:

7 “(1) the nature and circumstances of the of-  
8 fense charged, including whether the offense is a  
9 crime of violence, or involves a controlled substance,  
10 firearm, explosive, or destructive devise;”.

11 **SEC. 110. VENUE IN CAPITAL CASES.**

12 Section 3235 of title 18, United States Code, is  
13 amended to read as follows:

14 **“§ 3235. Venue in capital cases**

15 “(a) The trial for any offense punishable by death  
16 shall be held in the district where the offense was com-  
17 mitted or in any district in which the offense began, con-  
18 tinued, or was completed.

19 “(b) If the offense, or related conduct, under sub-  
20 section (a) involves activities which affect interstate or for-  
21 eign commerce, or the importation of an object or person  
22 into the United States, such offense may be prosecuted  
23 in any district in which those activities occurred.”.

1 **SEC. 111. STATUTE OF LIMITATIONS FOR VIOLENT CRIME.**

2 (a) IN GENERAL.—Chapter 213 of title 18, United  
3 States Code, is amended by adding at the end the fol-  
4 lowing:

5 **“§ 3298. Violent crime offenses**

6 “No person shall be prosecuted, tried, or punished  
7 for any noncapital felony, crime of violence, including any  
8 racketeering activity or gang crime which involves any  
9 crime of violence, unless the indictment is found or the  
10 information is instituted not later than 15 years after the  
11 date on which the alleged violation occurred or the con-  
12 tinuing offense was completed.”.

13 (b) CLERICAL AMENDMENT.—The table of sections  
14 at the beginning of chapter 213 of title 18, United States  
15 Code, is amended by adding at the end the following:

“3298. Violent crime offenses.”.

16 **SEC. 112. MODIFICATION OF DEFINITION OF CRIME OF VIO-**  
17 **LENCE.**

18 Section 16(b) of title 18, United States Code, is  
19 amended to read as follows:

20 “(b) any other offense that is an offense pun-  
21 ishable by imprisonment for more than one year and  
22 that, by its nature, involves a substantial risk that  
23 physical injury may result to the person or property  
24 of another, or is an offense punishable under sub-

1 paragraph (A), (B), or (C) of section 401(b)(1) of  
2 the Controlled Substances Act.”.

3 **SEC. 113. CLARIFICATION TO HEARSAY EXCEPTION FOR**  
4 **FORFEITURE BY WRONGDOING.**

5 Rule 804(b)(6) of the Federal Rules of Evidence is  
6 amended to read as follows:

7 “(6) FORFEITURE BY WRONGDOING.—A state-  
8 ment offered against a party who has engaged or ac-  
9 quiesced in wrongdoing, or who could reasonably  
10 foresee such wrongdoing would take place, if the  
11 wrongdoing was intended to, and did, procure the  
12 unavailability of the declarant as a witness.”.

13 **SEC. 114. INCREASED PENALTIES FOR CRIMINAL USE OF**  
14 **FIREARMS IN CRIMES OF VIOLENCE AND**  
15 **DRUG TRAFFICKING.**

16 (a) IN GENERAL.—Section 924(c) of title 18, United  
17 States Code, is amended—

18 (1) in paragraph (1)(A)—

19 (A) by striking “shall” and inserting “or  
20 conspires to commit any of the above acts,  
21 shall, for each instance in which the firearm is  
22 used, carried, or possessed”;

23 (B) in clause (i), by striking “5 years” and  
24 inserting “7 years”; and

1 (C) by striking clauses (ii) and (iii) and in-  
2 serting the following:

3 “(ii) if the firearm is discharged, be sen-  
4 tenced to a term of imprisonment of not less  
5 than 15 years; and

6 “(iii) if the firearm is used to wound, in-  
7 jure, or maim another person, be sentenced to  
8 a term of imprisonment of not less than 20  
9 years.”; and

10 (2) by striking paragraph (4).

11 (b) CONFORMING AMENDMENT.—Section 924 of title  
12 18, United States Code, is amended by striking subsection  
13 (o).

14 **SEC. 115. TRANSFER OF JUVENILES.**

15 The 4th undesignated paragraph of section 5032 of  
16 title 18, United States Code, is amended—

17 (1) by striking “A juvenile” where it appears at  
18 the beginning of the paragraph and inserting “Ex-  
19 cept as otherwise provided in this chapter, a juve-  
20 nile” ;

21 (2) by striking “as an adult, except that, with”  
22 and inserting “as an adult. With”; and

23 (3) by striking “However, a juvenile” and all  
24 that follows through “criminal prosecution.” at the  
25 end of the paragraph and inserting “The Attorney

1 General may prosecute as an adult a juvenile who is  
2 alleged to have committed an act after that juve-  
3 nile's 16th birthday which if committed by an adult  
4 would be a crime of violence that is a felony, an of-  
5 fense described in subsection (d), (i), (j), (k), (o),  
6 (p), (q), (u), or (x) of section 922 (relating to unlaw-  
7 ful acts), or subsection (b), (c), (g), (h), (k), (l), (m),  
8 or (n) of section 924 (relating to penalties), section  
9 930 (relating to possession of firearms and dan-  
10 gerous weapons in Federal facilities), or section 931  
11 (relating to purchase, ownership, or possession of  
12 body armor by violent felons). The decision whether  
13 or not to prosecute a juvenile as an adult under the  
14 immediately preceding sentence is not subject to ju-  
15 dicial review in any court. In a prosecution under  
16 that sentence, the juvenile may be prosecuted and  
17 convicted as an adult for any other offense which is  
18 properly joined under the Federal Rules of Criminal  
19 Procedure, and may also be convicted as an adult of  
20 any lesser included offense.”.

21 **SEC. 116. PUBLICITY CAMPAIGN ABOUT NEW CRIMINAL**  
22 **PENALTIES.**

23 The Attorney General is authorized to conduct media  
24 campaigns in those areas designated as high intensity  
25 interstate gang activity areas and those areas with existing

1 and emerging problem with gangs, as needed, to educate  
2 individuals there about the changes in criminal penalties  
3 made by this Act, and to report to the Committee on the  
4 Judiciary of the House of Representatives the amount of  
5 expenditures and all other aspects of the media campaign.

6 **SEC. 117. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
7 **TIONAL CRIME INFORMATION CENTER DATA-**  
8 **BASE.**

9 (a) PROVISION OF INFORMATION TO THE NCIC.—  
10 Not later than 180 days after the date of enactment of  
11 this Act, the Under Secretary for Border and Transpor-  
12 tation Security of the Department of Homeland Security  
13 shall provide the National Crime Information Center of  
14 the Department of Justice with such information as the  
15 Director may have on any and all aliens against whom  
16 a final order of removal has been issued, any and all aliens  
17 who have signed a voluntary departure agreement, and  
18 any and all aliens who have overstayed their visa. Such  
19 information shall be provided to the National Crime Infor-  
20 mation Center regardless of whether or not the alien re-  
21 ceived notice of a final order of removal and even if the  
22 alien has already been removed.

23 (b) INCLUSION OF INFORMATION IN THE NCIC  
24 DATABASE.—Section 534(a) of title 28, United States  
25 Code, is amended—

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

3 (2) by redesignating paragraph (4) as para-  
4 graph (5); and

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

7 “(4) acquire, collect, classify, and preserve  
8 records of violations of the immigration laws of the  
9 United States, regardless of whether or not the alien  
10 has received notice of the violation and even if the  
11 alien has already been removed; and”.

12 **SEC. 118. CRIMES OF VIOLENCE AND DRUG CRIMES COM-**  
13 **MITTED BY ILLEGAL ALIENS.**

14 (a) OFFENSES.—Title 18, United States Code, is  
15 amended by inserting after chapter 51 the following new  
16 chapter:

17 **“CHAPTER 52—ILLEGAL ALIENS**

“Sec.

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

18 **“§ 1131. Enhanced penalties for certain crimes com-**  
19 **mitted by illegal aliens**

20 “Whoever, being an alien who is unlawfully present  
21 in the United States, commits, conspires or attempts to  
22 commit, a crime of violence (as defined in section 16) or  
23 a drug trafficking offense (as defined in section 924), shall  
24 be fined under this title and sentenced to not less than

1 5 years in prison. If the defendant was previously ordered  
 2 removed under the Immigration and Nationality Act on  
 3 the grounds of having committed a crime, the defendant  
 4 shall be sentenced to not less than 15 years in prison .  
 5 A sentence of imprisonment imposed under this section  
 6 shall run consecutively to any other sentence of imprison-  
 7 ment imposed for any other crime.”.

8 (b) CLERICAL AMENDMENT.—The table of chapters  
 9 at the beginning of part I of title 18, United States Code,  
 10 is amended by inserting after the item relating to chapter  
 11 51 the following new item:

“**52. Illegal aliens** ..... **1131**”.

12 **SEC. 119. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
 13 **TIONAL CRIME INFORMATION CENTER DATA-**  
 14 **BASE.**

15 (a) PROVISION OF INFORMATION TO THE NCIC.—  
 16 Not later than 180 days after the date of enactment of  
 17 this Act, the Under Secretary for Border and Transpor-  
 18 tation Security of the Department of Homeland Security  
 19 shall provide the National Crime Information Center of  
 20 the Department of Justice with such information as the  
 21 Director may have on any and all aliens against whom  
 22 a final order of removal has been issued, and any and all  
 23 aliens who have signed a voluntary departure agreement.  
 24 Such information shall be provided to the National Crime  
 25 Information Center regardless of whether or not the alien



1 received notice of a final order of removal and even if the  
2 alien has already been removed.

3 (b) INCLUSION OF INFORMATION IN THE NCIC  
4 DATABASE.—Section 534(a) of title 28, United States  
5 Code, is amended—

6 (1) in paragraph (3), by striking “and” at the  
7 end;

8 (2) by redesignating paragraph (4) as para-  
9 graph (5); and

10 (3) by inserting after paragraph (3) the fol-  
11 lowing:

12 “(4) acquire, collect, classify, and preserve  
13 records of violations of the immigration laws of the  
14 United States, regardless of whether or not the alien  
15 has received notice of the violation and even if the  
16 alien has already been removed; and”.

17 **SEC. 120. STUDY.**

18 The Attorney General and the Secretary of Homeland  
19 Security shall jointly conduct a study on the connection  
20 between illegal immigration and gang membership and ac-  
21 tivity, including how many of those arrested nationwide  
22 for gang membership and violence are aliens illegally  
23 present in the United States. The Attorney General and  
24 the Secretary shall report the results of that study to Con-

1 gress not later than one year after the date of the enact-  
 2 ment of this Act.

3 **TITLE II—INCREASED FEDERAL**  
 4 **RESOURCES TO DETER AND**  
 5 **PREVENT AT-RISK YOUTH**  
 6 **FROM JOINING ILLEGAL**  
 7 **STREET GANGS**

8 **SEC. 201. DESIGNATION OF AND ASSISTANCE FOR “HIGH IN-**  
 9 **TENSITY” INTERSTATE GANG ACTIVITY**  
 10 **AREAS.**

11 (a) DEFINITIONS.—In this section the following defi-  
 12 nitions shall apply:

13 (1) GOVERNOR.—The term “Governor” means  
 14 a Governor of a State or the Mayor of the District  
 15 of Columbia.

16 (2) HIGH INTENSITY INTERSTATE GANG ACTIV-  
 17 ITY AREA.—The term “high intensity interstate  
 18 gang activity area” means an area within a State  
 19 that is designated as a high intensity interstate gang  
 20 activity area under subsection (b)(1).

21 (3) STATE.—The term “State” means a State  
 22 of the United States, the District of Columbia, and  
 23 any commonwealth, territory, or possession of the  
 24 United States.

1 (b) HIGH INTENSITY INTERSTATE GANG ACTIVITY  
2 AREAS.—

3 (1) DESIGNATION.—The Attorney General,  
4 after consultation with the Governors of appropriate  
5 States, may designate as high intensity interstate  
6 gang activity areas, specific areas that are located  
7 within 1 or more States.

8 (2) ASSISTANCE.—In order to provide Federal  
9 assistance to high intensity interstate gang activity  
10 areas, the Attorney General shall—

11 (A) establish criminal street gang enforce-  
12 ment teams, consisting of Federal, State, and  
13 local law enforcement authorities, for the co-  
14 ordinated investigation, disruption, apprehen-  
15 sion, and prosecution of criminal street gangs  
16 and offenders in each high intensity interstate  
17 gang activity area;

18 (B) direct the reassignment or detailing  
19 from any Federal department or agency (sub-  
20 ject to the approval of the head of that depart-  
21 ment or agency, in the case of a department or  
22 agency other than the Department of Justice)  
23 of personnel to each criminal street gang en-  
24 forcement team;

1 (C) provide all necessary funding for the  
2 operation of the criminal street gang enforce-  
3 ment team in each high intensity interstate  
4 gang activity area; and

5 (D) provide all necessary funding for na-  
6 tional and regional meetings of criminal street  
7 gang enforcement teams, and all other related  
8 organizations, as needed, to ensure effective op-  
9 eration of such teams through the sharing of  
10 intelligence, best practices and for any other re-  
11 lated purpose.

12 (3) COMPOSITION OF CRIMINAL STREET GANG  
13 ENFORCEMENT TEAM.—The team established pursu-  
14 ant to paragraph (2)(A) shall consist of agents and  
15 officers, where feasible, from—

16 (A) the Federal Bureau of Investigation;

17 (B) the Drug Enforcement Administration;

18 (C) the Bureau of Alcohol, Tobacco, Fire-  
19 arms, and Explosives;

20 (D) the United States Marshals Service;

21 (E) the Directorate of Border and Trans-  
22 portation Security of the Department of Home-  
23 land Security;

24 (F) the Department of Housing and Urban  
25 Development;

1 (G) State and local law enforcement; and

2 (H) Federal, State, and local prosecutors.

3 (4) CRITERIA FOR DESIGNATION.—In consid-  
4 ering an area for designation as a high intensity  
5 interstate gang activity area under this section, the  
6 Attorney General shall consider—

7 (A) the current and predicted levels of  
8 gang crime activity in the area;

9 (B) the extent to which violent crime in  
10 the area appears to be related to criminal street  
11 gang activity, such as drug trafficking, murder,  
12 robbery, assaults, carjacking, arson, kidnap-  
13 ping, extortion, and other criminal activity;

14 (C) the extent to which State and local law  
15 enforcement agencies have committed resources  
16 to—

17 (i) respond to the gang crime prob-  
18 lem; and

19 (ii) participate in a gang enforcement  
20 team;

21 (D) the extent to which a significant in-  
22 crease in the allocation of Federal resources  
23 would enhance local response to the gang crime  
24 activities in the area; and

1           (E) any other criteria that the Attorney  
2           General considers to be appropriate.

3           (5) CONSULTATION REQUIRED.—The Attorney  
4           General may not designate a high intensity inter-  
5           state gang activity area without first consulting with  
6           and receiving comment from local elected officials  
7           representing communities within the State of pro-  
8           posed designation.

9           (c) NATIONAL GANG INTELLIGENCE CENTER.—

10           (1) ESTABLISHMENT.—The Attorney General  
11           shall establish a National Gang Intelligence Center  
12           to be housed at and administered by the Federal  
13           Bureau of Investigation to collect, analyze, and dis-  
14           seminate gang activity information from—

- 15                   (A) the Federal Bureau of Investigation;
- 16                   (B) the Bureau of Alcohol, Tobacco, Fire-  
17                   arms, and Explosives;
- 18                   (C) the Drug Enforcement Administration;
- 19                   (D) the Bureau of Prisons;
- 20                   (E) the United States Marshals Service;
- 21                   (F) the Directorate of Border and Trans-  
22                   portation Security of the Department of Home-  
23                   land Security;
- 24                   (G) the Department of Housing and Urban  
25                   Development;

- 1 (H) State and local law enforcement;  
2 (I) Federal, State, and local prosecutors;  
3 (J) Federal, State, and local probation and  
4 parole offices; and  
5 (K) Federal, State, and local prisons and  
6 jails.

7 (2) INFORMATION.—The Center established  
8 under paragraph (1) shall make available the infor-  
9 mation referred to in paragraph (1) to—

- 10 (A) Federal, State, and local law enforce-  
11 ment agencies;  
12 (B) Federal, State, and local corrections  
13 agencies and penal institutions; and  
14 (C) Federal, State, and local prosecutorial  
15 agencies.

16 (3) ANNUAL REPORT.—The Center established  
17 under paragraph (1) shall annually submit to Con-  
18 gress a report on gang activity.

19 (d) NATIONAL AND REGIONAL GANG ACTIVITY  
20 DATABASES.—

21 (1) DATABASES REQUIRED.—From amounts  
22 made available to carry out this section, the Attor-  
23 ney General shall establish—

1 (A) for each high intensity interstate gang  
2 activity area, a regional gang activity database;  
3 and

4 (B) a national gang activity database that  
5 replicates the information in the regional data-  
6 bases.

7 (2) DESCRIPTION.—Each regional gang activity  
8 database required by paragraph (1) shall—

9 (A) be designed to disseminate gang infor-  
10 mation to law enforcement agencies throughout  
11 the region;

12 (B) contain critical information on gangs,  
13 gang members, firearms, criminal activities, ve-  
14 hicles, and other information useful for inves-  
15 tigators in solving gang-related crimes; and

16 (C) operate in a manner that enables law  
17 enforcement agencies to—

18 (i) identify gang members involved in  
19 crimes;

20 (ii) track the movement of gangs and  
21 members throughout the region;

22 (iii) coordinate police response to  
23 gang violence;

24 (iv) enhance officer safety;



1 (v) provide realistic, up to date figures  
2 and statistical data on gang crime and vio-  
3 lence;

4 (vi) forecast trends and respond ac-  
5 cordingly; and

6 (vii) more easily solve crimes and pre-  
7 vent violence.

8 (e) ADDITIONAL ASSISTANT U.S. ATTORNEYS.—The  
9 Attorney General is authorized to hire 94 additional As-  
10 sistant United States attorneys to carry out the provisions  
11 of this section. Each attorney hired under this subsection  
12 shall be assigned to a high intensity interstate gang activ-  
13 ity area.

14 (f) ADDITIONAL BATFE INSPECTORS AND  
15 AGENTS.—The Attorney General, acting through the Di-  
16 rector of the Bureau of Alcohol, Tobacco, Firearms, and  
17 Explosives, is authorized to hire 100 additional inspectors  
18 and 100 additional agents for the Bureau. Each inspector  
19 and agent hired under this subsection shall be assigned  
20 to a high intensity interstate gang activity area, for the  
21 purpose of assisting local law enforcement agencies to pro-  
22 vide more accurate and complete reports to the Bureau  
23 of weapons used by gangs in the area.

24 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated—

1           (1) \$60,000,000 for each of the fiscal years  
2           2006 through 2010 to carry out subsection (b);

3           (2) \$7,500,000 for each of the fiscal years 2006  
4           through 2010 to carry out subsection (e); and

5           (3) \$20,000,000 for each of the fiscal years  
6           2006 through 2010 to carry out subsection (f).

7 **SEC. 202. GRANTS TO STATE AND LOCAL PROSECUTORS TO**  
8                                   **COMBAT VIOLENT CRIME AND TO PROTECT**  
9                                   **WITNESSES AND VICTIMS OF CRIMES.**

10           (a) IN GENERAL.—Section 31702 of the Violent  
11 Crime Control and Law Enforcement Act of 1994 (42  
12 U.S.C. 13862) is amended—

13           (1) in paragraph (3), by striking “and” at the  
14           end;

15           (2) in paragraph (4), by striking the period at  
16           the end and inserting a semicolon; and

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

18           “(5) to hire additional prosecutors to—

19                           “(A) allow more cases to be prosecuted;

20                           and

21                           “(B) reduce backlogs;

22           “(6) to fund technology, equipment, and train-  
23           ing for prosecutors and law enforcement in order to  
24           increase accurate identification of gang members  
25           and violent offenders, and to maintain databases

1 with such information to facilitate coordination  
2 among law enforcement and prosecutors; and

3 “(7) to fund technology, equipment, and train-  
4 ing for prosecutors to increase the accurate identi-  
5 fication and successful prosecution of young violent  
6 offenders.”.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
8 31707 of the Violent Crime Control and Law Enforcement  
9 Act of 1994 (42 U.S.C. 13867) is amended to read as  
10 follows:

11 **“SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.**

12 “There are authorized to be appropriated  
13 \$20,000,000 for each of the fiscal years 2006 through  
14 2010 to carry out this subtitle.”.

Passed the House of Representatives May 11, 2005.

Attest:

JEFF TRANDAHL,

*Clerk.*