A BILL

To control crime by incarcerating violent criminals.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Violent Criminal Incar-
ceration Act of 1995”.

TITLE I—TRUTH IN SENTENCING

SEC. 101. TRUTH IN SENTENCING GRANT PROGRAM.

Title V of the Violent Crime Control and Law En-
forcement Act of 1994 is amended to read as follows:
"TITLE V—TRUTH IN SENTENCING GRANTS"

"SEC. 501. AUTHORIZATION OF GRANTS.

"(a) In general.—The Attorney General is authorized to provide grants to eligible States and to eligible States organized as a regional compact to build, expand, and operate space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony and to build, expand, and operate temporary or permanent correctional facilities, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

"(b) Limitation.—An eligible State or eligible States organized as a regional compact may receive either a general grant under section 502 or a truth-in-sentencing incentive grant under section 503.

"SEC. 502. GENERAL GRANTS.

"(a) Distribution of General Grants.—50 percent of the total amount of funds made available under this title for each of the fiscal years 1995 through 2000 shall be made available for general eligibility grants for
each State or States organized as a regional compact that meets the requirements of subsection (b).

(b) GENERAL GRANTS.—In order to be eligible to receive funds under subsection (a), a State or States organized as a regional compact shall submit an application to the Attorney General that provides assurances that such State since 1993 has—

(1) increased the percentage of convicted violent offenders sentenced to prison;

(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison; and

(3) increased the percentage of sentence to be actually served in prison by violent offenders sentenced to prison.

SEC. 503. TRUTH-IN-SENTENCING GRANTS.

(a) TRUTH-IN-SENTENCING INCENTIVE GRANTS.—50 percent of the total amount of funds made available under this title for each of the fiscal years 1995 through 2000 shall be made available for truth-in-sentencing incentive grants to each State or States organized as a regional compact that meet the requirements of subsection (c).

(b) ELIGIBILITY FOR TRUTH-IN-SENTENCING INCENTIVE GRANTS.—In order to be eligible to receive funds under subsection (a), a State or States organized as a re-
gional compact shall submit an application to the Attorney General that provides assurances that each State applying has enacted laws and regulations which include—

“(1)(A) truth-in-sentencing laws which require persons convicted of a serious violent felony serve not less than 85 percent of the sentence imposed or 85 percent of the court-ordered maximum sentence for States that practice indeterminate sentencing; or

“(B) truth-in-sentencing laws which have been enacted, but not yet implemented, that require such State, not later than three years after such State submits an application to the Attorney General, to provide that persons convicted of a serious violent felony serve not less than 85 percent of the sentence imposed or 85 percent of the court-ordered maximum sentence for States that practice indeterminate sentencing, and

“(2) laws requiring that the sentencing or releasing authorities notify and allow the victims of the defendant or the family of such victims the opportunity to be heard regarding the issue of sentencing and any postconviction release.

“SEC. 504. SPECIAL RULES.

“(a) INDETERMINANT SENTENCING EXCEPTION.—

Notwithstanding the provisions of paragraphs (1) through
(3) of section 502(b), a State shall be eligible for grants under this title, if the State, not later than the date of the enactment of this title—

"(1) practices indeterminant sentencing; and

"(2) the average times served in such State for the offenses of murder, rape, robbery, and assault exceed, by 10 percent or greater, the national average of times served for such offenses.

"(b) EXCEPTION.—The requirements under section 502(b) shall apply, except that a State may provide that the Governor of the State may allow for the release of a prisoner over the age of 70 after a public hearing in which representatives of the public and the prisoner's victims have an opportunity to be heard regarding a proposed release.

"SEC. 505. FORMULA FOR GRANTS.

"To determine the amount of funds that each eligible State or eligible States organized as a regional compact may receive to carry out programs under section 502 or 503, the Attorney General shall apply the following formula:

“(1) $500,000 or 0.40 percent, whichever is greater shall be allocated to each participating State or compact, as the case may be; and
“(2) of the total amount of funds remaining after the allocation under paragraph (1), there shall be allocated to each State or compact, as the case may be, an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State or compact, as the case may be, bears to the population of all the States.

“SEC. 506. ACCOUNTABILITY.

“(a) FISCAL REQUIREMENTS.—A State or States organized as a regional compact that receives funds under this title shall use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General.

“(b) REPORTING.—Each State that receives funds under this title shall submit an annual report, beginning on January 1, 1996, and each January 1 thereafter, to the Congress regarding compliance with the requirements of this title.

“(c) ADMINISTRATIVE PROVISIONS.—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General in the same manner as such provisions apply to the officials listed in such sections.
SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) $232,000,000 for fiscal year 1995;
(2) $997,500,000 for fiscal year 1996;
(3) $1,330,000,000 for fiscal year 1997;
(4) $2,527,000,000 for fiscal year 1998;
(5) $2,660,000,000 for fiscal year 1999; and
(6) $2,753,100,000 for fiscal year 2000.

(b) LIMITATIONS ON FUNDS.—

(1) USES OF FUNDS.—Funds made available under this title may be used to carry out the purposes described in section 501(a).

(2) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(3) ADMINISTRATIVE COSTS.—Not more than three percent of the funds available under this section may be used for administrative costs.

(4) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal as described in an application approved under this title.
“(5) Carry over of Appropriations.—Any funds appropriated but not expended as provided by this section during any fiscal year shall remain available until expended.

"SEC. 508. DEFINITIONS.

"As used in this title—

“(1) the term ‘indeterminate sentencing’ means a system by which—

“(A) the court has discretion on imposing the actual length of the sentence imposed, up to the statutory maximum; and

“(B) an administrative agency, generally the parole board, controls release between court-ordered minimum and maximum sentence;

“(2) the term ‘serious violent felony’ means—

“(A) an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another and has a maximum term of imprisonment of 10 years or more,

“(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of..."
committing the offense and has a maximum
term of imprisonment of 10 years or more, or
“(C) such crimes include murder, assault
with intent to commit murder, arson, armed
burglary, rape, assault with intent to commit
rape, kidnapping, and armed robbery; and
“(3) the term ‘State’ means a State of the
United States, the District of Columbia, or any com-
monwealth, territory, or possession of the United
States.”.

TITLE II—STOPPING ABUSIVE PRISONER LAWSUITS

SEC. 201. EXHAUSTION REQUIREMENT.

Section 7(a)(1) of the Civil Rights of Institutionalized
Persons Act (42 U.S.C. 1997d) is amended—
(1) by striking “in any action brought” and in-
serting “no action shall be brought”;
(2) by striking “the court shall” and all that
follows through “require exhaustion of” and insert
“until”; and
(3) by inserting “are exhausted” after “avail-
able”.

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SEC. 202. FRIVOLOUS ACTIONS.
Section 7(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997d(a)) is amended by adding at the end the following:

"(3) The court shall on its own motion or on motion of a party dismiss any action brought pursuant to section 1979 of the Revised Statutes of the United States by an adult convicted of a crime and confined in any jail, prison, or other correctional facility if the court is satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious."

SEC. 203. MODIFICATION OF REQUIRED MINIMUM STANDARDS.
Section 7(b)(2) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997d(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

SEC. 204. PROCEEDINGS IN FORMA PAUPERIS.
(a) DISMISSAL.—Section 1915(d) of title 28, United States Code, is amended—

(1) by inserting "at any time" after "counsel and may"; and

(2) by striking "and may" and inserting "and shall";
(3) by inserting "fails to state a claim upon which relief may be granted or" after "that the ac-
tion"; and

(4) by inserting "even if partial filing fees have been imposed by the court" before the period.

(b) PRISONER'S STATEMENT OF ASSETS.—Section 1915 of title 28, United States Code, is amended by add-
ing at the end the following:

"(f) If a prisoner in a correctional institution files an affidavit in accordance with subsection (a) of this sec-
tion, such prisoner shall include in that affidavit a state-
ment of all assets such prisoner possesses. The court shall make inquiry of the correctional institution in which the prisoner is incarcerated for information available to that institution relating to the extent of the prisoner's assets. The court shall require full or partial payment of filing fees according to the prisoner's ability to pay."

TITLE III—STOP TURNING OUT PRISONERS

SEC. 301. APPROPRIATE REMEDIES FOR PRISON CONDI-
tIONS.

(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:
§ 3626. Appropriate remedies with respect to prison conditions

(a) REQUIREMENTS FOR RELIEF.—

(1) LIMITATIONS ON PROSPECTIVE RELIEF.—

Prospective relief in a civil action with respect to prison conditions shall extend no further than necessary to remove the conditions that are causing the deprivation of the Federal rights of individual plaintiffs in that civil action. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn and the least intrusive means to remedy the violation of the Federal right. In determining the intrusiveness of the relief, the court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

(2) PRISON POPULATION REDUCTION RELIEF.—In any civil action with respect to prison conditions, the court shall not grant or approve any relief whose purpose or effect is to reduce or limit the prison population, unless the plaintiff proves that crowding is the primary cause of the deprivation of the Federal right and no other relief will remedy that deprivation.

(b) TERMINATION OF RELIEF.—
“(1) AUTOMATIC TERMINATION OF PROSPECTIVE RELIEF AFTER 2-YEAR PERIOD.—In any civil action with respect to prison conditions, any prospective relief shall automatically terminate 2 years after the later of—

“(A) the date the court found the violation of a Federal right that was the basis for the relief; or

“(B) the date of the enactment of the Stop Turning Out Prisoners Act.

“(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervenor shall be entitled to the immediate termination of any prospective relief, if that relief was approved or granted in the absence of a finding by the court that prison conditions violated a Federal right.

“(c) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

“(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.
"(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

"(A) beginning on the 30th day after such motion is filed, in the case of a motion made under subsection (b); and

"(B) beginning on the 180th day after such motion is filed, in the case of a motion made under any other law;

and ending on the date the court enters a final order ruling on that motion.

"(d) STANDING.—Any Federal, State, or local official or unit of government—

"(1) whose jurisdiction or function includes the prosecution or custody of persons in a prison subject to; or

"(2) who otherwise is or may be affected by;

any relief whose purpose or effect is to reduce or limit the prison population shall have standing to oppose the imposition or continuation in effect of that relief and may intervene in any proceeding relating to that relief. Standing shall be liberally conferred under this subsection so as to effectuate the remedial purposes of this section.

"(e) SPECIAL MASTERS.—In any civil action in a Federal court with respect to prison conditions, any spe-
cial master or monitor shall be a United States magistrate and shall make proposed findings on the record on complicated factual issues submitted to that special master or monitor by the court, but shall have no other function. The parties may not by consent extend the function of a special master beyond that permitted under this subsection.

“(f) ATTORNEY'S FEES.—No attorney's fee under section 722 of the Revised Statutes of the United States (42 U.S.C. 1988) may be granted to a plaintiff in a civil action with respect to prison conditions except to the extent such fee is—

“(1) directly and reasonably incurred in proving an actual violation of the plaintiff’s Federal rights; and

“(2) proportionally related to the extent the plaintiff obtains court ordered relief for that violation.”.

“(g) DEFINITIONS.—As used in this section—

“(1) the term ‘prison’ means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;
“(2) the term ‘relief’ means all relief in any form which may be granted or approved by the court, and includes consent decrees and settlement agreements; and

“(3) the term ‘prospective relief’ means all relief other than compensatory monetary damages.”

(b) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all relief (as defined in such section) whether such relief was originally granted or approved before, on, or after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended by striking “crowding” and inserting “conditions”.

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