To control crime by incarcerating violent criminals.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1995
Mr. McCOLLUM introduced the following bill; which was referred to the Committee on the Judiciary

FEBRUARY 6, 1995
Additional sponsors: Mr. BRYANT of Tennessee, Mr. BLILEY, and Mr. ENGLISH of Pennsylvania

FEBRUARY 6, 1995
Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 25, 1995]

A BILL

To control crime by incarcerating violent criminals.

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

This Act may be cited as the "Violent Criminal Incarceration Act of 1995".

TITLE I—TRUTH IN SENTENCING

SEC. 101. TRUTH IN SENTENCING GRANT PROGRAM.

Title V of the Violent Crime Control and Law Enforcement 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 and boot camp facilities, 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 (b).

“(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 regional 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) ADDITIONAL REQUIREMENTS.—To be eligible to receive a grant under section 502 or 503, a State or States organized as a regional compact shall provide an assurance to the Attorney General that—

"(1) to the extent practicable, inmate labor will be used to build and expand correctional facilities;

"(2) each State will involve counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation, or improvement of correctional facilities designed to ensure the incarceration of offenders, and that each State will share funds received under this title with any county or other unit of local government that is housing State prisoners, taking into account the burden placed on such county or unit of local government in confining prisoners due to overcrowding in State prison facilities in furtherance of the purposes of this Act; and

"(3) the State has implemented or will implement, not later than 18 months after the date of the enactment of the Violent Criminal Incarceration Act of 1995, policies to determine the veteran status of in-
mates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled.

"(b) 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.

"(c) EXCEPTION.—The requirements under section 503(b) shall apply, except that a State may provide that the Governor of the State may allow for earlier release of a geriatric prisoner or a prisoner whose medical condition precludes the prisoner from posing a threat to the public 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) $997,500,000 for fiscal year 1996;
"(2) $1,330,000,000 for fiscal year 1997;
"(3) $2,527,000,000 for fiscal year 1998;
"(4) $2,660,000,000 for fiscal year 1999; and
"(5) $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 per-
cent 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 prop-
erty 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 including 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 commonwealth, territory, or possession of the United States."

SEC. 102. CONFORMING AMENDMENTS.

(a) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—


(2) FUNDING.—(A) Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking paragraph (20).

(B) Notwithstanding the provisions of subparagraph (A), any funds that remain available to an applicant under paragraph (20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be used in accordance with part V of such Act as such
Act was in effect on the day preceding the date of enactment of this Act.

(b) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(1) REPEAL.—(A) Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is repealed.

(B) The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to subtitle A of title II.

(2) COMPLIANCE.—Notwithstanding the provisions of paragraph (1), any funds that remain available to an applicant under subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 shall be used in accordance with such subtitle as such subtitle was in effect on the day preceding the date of enactment of this Act.

(3) TRUTH-IN-SENTENCING.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to title V and inserting the following:

"TITLE V—TRUTH-IN-SENTENCING GRANTS

"Sec. 502. General grants.
"Sec. 503. Truth-in-sentencing grants.
"Sec. 504. Special rules.
"Sec. 505. Formula for grants.

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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. 1997e) is amended—

(1) by striking "in any action brought" and inserting "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 "available".

SEC. 202. FRIVOLOUS ACTIONS.

Section 7(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(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. 1997e(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”;

(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 action”; 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 adding at the end the following:

“(f) If a prisoner in a correctional institution files an affidavit in accordance with subsection (a) of this section, such prisoner shall include in that affidavit a statement 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 CONDITIONS.**

(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 re-
lief, 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 imposi-

tion or continuation in effect of that relief and may inter-

vene 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 special

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 sec-

tion 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;
“(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 item relating to section 3626 in 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”.
TITLE IV—ENHANCING PROTECTION AGAINST INCARCERATED CRIMINALS

SEC. 401. PRISON SECURITY.

(a) In General.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 4048. Strength-training of prisoners prohibited

"The Bureau of Prisons shall ensure that—

"(1) prisoners under its jurisdiction do not engage in any physical activities designed to increase their fighting ability; and

"(2) all equipment designed for increasing the strength or fighting ability of prisoners promptly be removed from Federal correctional facilities and not be introduced into such facilities thereafter except as needed for a medically required program of physical rehabilitation approved by the Director of the Bureau of Prisons."

(b) Clerical Amendment.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding at the end the following new item:

"4048. Strength-training of prisoners prohibited."
A BILL
To control crime by incarcerating violent criminals.

FEBRUARY 6, 1995
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