

---

# Congressional Record



United States  
of America

PROCEEDINGS AND DEBATES OF THE 104<sup>th</sup> CONGRESS, FIRST SESSION

---

United States  
Government  
Printing Office

SUPERINTENDENT  
OF DOCUMENTS  
Washington, DC 20402

OFFICIAL BUSINESS  
Penalty for private use, \$300

**DO NOT REMOVE**

**DEPOSITORY**  
**U.S. Dept. of Justice**  
**Main Library**

SECOND CLASS NEWSPAPER

Postage and Fees Paid  
U.S. Government Printing Office  
(USPS 087-390)

Mr. HATCH. Parliamentary inquiry. It is appropriate to send up an amendment?

The PRESIDING OFFICER. The committee amendments are still pending.

Mr. HATCH. Mr. President, I ask unanimous consent that the pending committee amendments be set aside so that I can send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2338

(Purpose: To provide for appropriate remedies for prison condition lawsuits, to discourage frivolous and abusive prison lawsuits, and for other purposes)

Mr. HATCH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH), for himself, Mr. DOLE, Mr. REID, Mr. THURMOND, Mr. SPECTER, Mr. KYL, Mr. ABRAHAM, Mrs. HUTCHISON, Mr. GRAMM, Mr. Santorum, Mr. GRASSLEY, and Mr. BROWN, proposes an amendment numbered 2338.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HATCH. Mr. President, I ask the managers of the bill how much time they want us to take on this amendment.

Let me ask my colleague from Nevada how much time he thinks he needs.

Mr. REID. Mr. President, I appreciate the Senator's courtesy. I will be happy to do whatever is appropriate. I would like 15 or 20 minutes myself.

Mr. HATCH. I ask my colleague if we can do it in a half hour equally divided.

Mr. REID. Yes.

Mr. HATCH. Mr. President, I ask unanimous consent that this amendment take a half hour equally divided on both sides.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Reserving the right to object, Mr. President, and I shall not object, I just want to tell my colleagues, there are two of my colleagues on this side who are going to seek to modify the Senator's amendment. I am not sure that is going to actually happen, so he is not caught blindsided by that. I am not at liberty to agree to a time agreement that is not subject to an amendment in the second degree. I do not know that will happen, so I do not object.

The PRESIDING OFFICER. Is there objection to the request that there be 90 minutes equally divided?

Without objection, it is so ordered.

Mr. REID. Mr. President, if the Senator from Delaware is going to offer a second-degree amendment to this, I am not sure it would be in the best interest of the proponents of the amend-

ment to agree to a 30-minute time agreement.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Reserving the right to object, and I will not object, if I can get the same time limit pertaining to a second-degree amendment, if there is a second-degree amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving the right to object, and I shall not, what is the subject matter of the amendment?

Mr. HATCH. This is the prison litigation reform amendment to do away with frivolous lawsuits. It should not take a lot of time, and if there is a second-degree amendment, we will just have to face that when that happens.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Who yields time?

Mr. DOLE. Mr. President, I want to say a few words in support of the amendment offered by my distinguished colleague from Utah, Senator HATCH.

Unfortunately, the litigation explosion now plaguing our country does not stop at the prison gate. The number of lawsuits filed by inmates has grown astronomically—From 6,600 in 1975 to more than 39,000 in 1994. These suits can involve such grievances as insufficient storage locker space, a defective haircut by a prison barber, the failure of prison officials to invite a prisoner to a pizza party for a departing prison employee, and yes, being served chunky peanut butter instead of the creamy variety.

These legal claims may sound far-fetched—almost funny—but unfortunately, prisoner litigation does not operate in a vacuum. Frivolous lawsuits filed by prisoners tie up the courts, waste valuable legal resources, and affect the quality of justice enjoyed by law-abiding citizens. The time and money spent defending these cases are clearly time and money better spent prosecuting violent criminals, fighting illegal drugs, or cracking down on consumer fraud.

The National Association of Attorneys General estimates that inmate civil rights litigation costs the States more than \$81 million each year. Of course, most of these costs are incurred defending lawsuits that have no merit whatsoever.

This amendment will help put an end to the inmate litigation fun-and-games. It establishes a garnishment procedure so that prisoners, like law-abiding citizens, will have to pay the court fees associated with filing a lawsuit. It requires State prisoners to exhaust all administrative remedies before filing suit. It would allow Federal courts to revoke the good-time credits accumulated by a prisoner who files a frivolous suit. And it prohibits prisoners from suing for mental or emotional injury, absent a prior showing of physical injury.

The second major section of this amendment establishes some tough new guidelines for Federal courts when evaluating legal challenges to prison conditions. These guidelines will work to restrain liberal Federal judges who see violations of constitutional rights in every prisoner complaint and who have used these complaints to micromanage State and local prison systems. More specifically, by requiring Federal judges to meet a high burden of proof before imposing a prison cap order, this amendment will help keep convicted criminals behind bars where they belong.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield myself such time as I may need, and I will try to reserve time for the Senator from Nevada.

I am pleased to be joined by the majority leader and Senators REID, KYL, ABRAHAM, GRAMM, SPECTER, HUTCHISON, THURMOND, SANTORUM, and GRASSLEY in offering this amendment. Our amendment is virtually identical to the Prison Litigation Reform Act of 1995, S. 1279, which we introduced yesterday. This landmark legislation will help bring relief to a civil justice system overburdened by frivolous prisoner lawsuits. Jailhouse lawyers with little better to do are tying our courts in knots with the endless flow of frivolous litigation.

Our legislation will also help to restore a balance to prison conditions litigation and will ensure that Federal court orders are limited to remedying actual violations of prisoners' rights, not letting prisoners out of jail. It is time to lock the revolving prison door and to put the key safely out of reach of overzealous Federal courts.

As of January 1994, 24 corrections agencies reported having court-mandated population caps. Nearly every day, we hear of vicious crimes committed by individuals who really should have been locked up. Not all of these tragedies are the result of court-ordered population caps, of course, but such caps are a part of the problem. While prison conditions that actually violate the Constitution should not be allowed to persist, I believe that the courts have gone too far in micromanaging our Nation's prisons.

Our legislation also addresses the flood of frivolous lawsuits brought by inmates. In 1994, over 39,000 lawsuits were filed by inmates in Federal courts, a staggering 15 percent over the number filed the previous year. The vast majority of these suits are completely without merit. Indeed, roughly 94.7 percent are dismissed before the pretrial phase, and only a scant 3.1 percent have enough validity to even reach trial. In my own home State of Utah, 297 inmate suits were filed in Federal courts during 1994, which accounted for 22 percent of all Federal civil cases filed in Utah last year. I should emphasize that these numbers

do not include habeas corpus petitions or other cases challenging the inmate's conviction or sentence. The crushing burden of these frivolous suits makes it difficult for the courts to consider meritorious claims.

Indeed, I do not want to prevent inmates from raising legitimate claims. This legislation will not prevent those claims from being raised. The legislation will, however, go far in preventing inmates from abusing the Federal judicial system.

In one frivolous case in Utah, for example, an inmate sued demanding that he be issued Reebok or L.A. Gear brand shoes instead of the Converse brand being issued. In another case, an inmate deliberately flooded his cell and then sued the officers who cleaned up the mess because they got his pinochle cards wet. And in a third case, from Utah, a prisoner sued officers after a cell search, claiming that they failed to put his cell back in a fashionable condition, and mixed his clean and dirty clothes.

Mr. President, these examples from my State are far from unique. I believe each of my colleagues could report numerous similar examples from their States as well, and we had a number of attorneys general here yesterday who gave us a whole raft of bizarre incidents and litigation.

It is time to stop this ridiculous waste of taxpayers' money. The huge costs imposed on State governments to defend against these meritless suits is another kind of crime committed against law-abiding citizens.

Mr. President, this legislation enjoys broad bipartisan support from States attorneys general from across the Nation. We believe, with them, that it is time to wrest control of our prisons from the lawyers and the inmates and return that control to competent administrators appointed to look out for society's interests as well as the legitimate needs of prisoners.

So I urge my colleagues to support this amendment, and I look forward to securing its quick passage by the Senate.

I yield to my distinguished colleague from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I wish to express my appreciation to the senior Senator from Utah, and especially to his staff. The staff has worked on this legislation for many, many weeks. And I publicly express my appreciation to them and to the chairman of the Judiciary Committee, the Senator from Utah.

I also thank the majority leader, who has been with us on this legislation from the beginning. I appreciate his being with us throughout the development of this legislation.

I also wish to thank our Nation's attorneys general who have worked diligently to bring this problem to our attention. I understand they would like to see some minor modifications made

to this amendment as it works its way through conference and I hope the conferees will consider their expertise.

Mr. President, when I was a new lawyer in Las Vegas, I was appointed by a Federal judge to represent someone charged with stealing cars, a violation of taking a car across State lines. I went to see this man as a young lawyer, very anxious to help him. When I got to the prison, this man said, "Don't bother, I committed this crime on purpose. I wanted to go back to a Federal prison. I did not want to go to a State prison. I like being in a Federal prison." Ever since that, Mr. President, I have thought to myself, there is something profoundly wrong with a criminal justice system where people look forward to going to prison.

Now, this amendment deals with a lot of things. One of the things it deals with is frivolous lawsuits by prisoners. I wrote an article for a Las Vegas newspaper. I would like to recite part of what I wrote.

Life can be tough. Mom brought home creamy peanut butter when you asked for extra chunky? You didn't get that fancy weight machine you wanted for Christmas? Don't like the type of music they play over the stereo system at work.

Well, heck. Why not file a lawsuit? Oh, I know what you're thinking: "I can't afford a lawyer."

Suppose, though, I told you about a plan that provides you with an up-to-date library and a legal assistant to help in your suit. This plan not only provides legal research, it also gives you, absolutely free, three square meals a day. And friends, if you get tired of legal research, you can watch cable TV in the rec room or lift weights in a nice modern gym.

"OK, OK," you're saying. "What's the catch? How much do I have to pay to sign up for the program?"

Well, folks, that's the best part. This assistance plan is absolutely free. All you have to do to qualify is to commit a crime, get caught and go to the pen.

That is like the man I met, Mr. President, a number of years ago in the Clark County jail.

Mr. President, prison inmates are abusing our system. I have behind me a chart that shows the lawsuits that have been filed. In 1970, we had a few. Here it is, Mr. President, our last recorded number. There are certainly far greater than that. I will bet that today they are up to 50,000. Here we only go up to about 40,000.

What kinds of lawsuits do they file? Well, Mr. President, as the senior Senator from Utah said, all States have some examples. I would like to give you what we have had in Nevada. These are the top 10 lawsuits in Nevada filed by prisoners.

Inmate's claim: He should not be required to open his window slot when meals are delivered. He filed a lawsuit.

Inmate's claim: Limiting the receipt of stamps in mail violates his religious belief in writing letters.

Inmate's claim: The prison's delivery of mail interfered with his usual sleeping pattern. A lawsuit was filed.

Mr. President, 40 percent of the lawsuits—the litigation handled in our

Federal judiciary in the State of Nevada is prison litigation—40 percent of it. Lawsuits like: "Prison destroyed his hobbycraft items." What were they? Woman's clothing. This was a man, of course.

Inmate's claim: Forced to wear a size 5 tennis shoe when the actual size of his foot was 4 3/4.

He filed a lawsuit.

Inmate's claim: The prison chaplain refused to perform same-sex religious ceremony.

Mr. President, if these were not so serious, we would laugh about it. Forty percent of the Federal judiciary in Nevada spends their time on this garbage.

Inmate's claim: He filed a lawsuit claiming the cake he was served for dessert was hacked up.

Inmate's claim: Jeans fit him improperly, and because of that he suffered an epileptic seizure.

Those must have been tight jeans.

Inmate's claim: Prison denied him incense and jewelry to use in the practice of his religion.

This next one is a dandy.

Inmate's claim: He ordered two jars of chunky peanut butter from the prison canteen and was sent one jar of chunky and one jar of creamy.

He filed a lawsuit.

You know, Mr. President, this is just horrible. And to think that we, the taxpayers, are paying for all of this—not only in the time of the judiciary but, as I indicated in my narrative to begin with, we are often supplying the lawyers. And, the prisoners have better law libraries than 90 percent of the lawyers in America.

Almost 100 percent of these claims are dismissed, but the judges have to go through all of them. Yet, notwithstanding the odds against prevailing, inmates continue to file suits. They laugh about it. On one national TV program, a man bragged that he filed hundreds of them himself. With our rate of incarceration increasing, this will go up. Few would back a solution that reduces our prison population. Ironically, this is practically what some judges are doing through the ordering of prison population Caps.

There is much that this amendment has in it, Mr. President. It is something that we should adopt. Some may ask, is there a need to curb this? I have gone over the reasons I think we need to curb it. I have talked about some of the cases in Nevada. But these are only a few Nevada cases. There are hundreds of them. The attorney general—every time she talks, she talks about her staff time being used on these kinds of cases. She cannot render opinions that legal constitutional officers in the State of Nevada want her to do because she is defending chunky peanut butter. One prisoner filed a claim as to how many times he should be able to change his underwear.

This problem, as the Senator from Utah indicated, plagues all States.

In California, an inmate alleged that prison officials implanted an electronic

device in his brain to control his thoughts. He claimed that his thoughts were then broadcast over the prison PA system.

Another California inmate claimed he suffered mental anguish worrying that tear gas would be used if he refused to exit his cell.

An Indiana inmate sued the State of Indiana for \$3,000, but he was not sure why. He asked the court to determine what the cause should be.

An Iowa inmate sued for the right to lobby the legislature to approve consensual sex between minors and adults.

A Massachusetts inmate brought suit claiming the State should not have thrown out the personal property he left behind after he escaped from prison.

A Missouri inmate sued because the prison did not have salad bars and brunches on weekends.

Well, Mr. President, this is the worst. I feel very strongly about this legislation, and we can go into detail about what it does. But, basically, without going into a lot of detail, it would stop this kind of foolishness. This foolishness costs tens of millions of dollars throughout the States. The taxpayers finance this litigation.

A report on ABC suggests the cost of inmate litigation hindered the expansion of Head Start and the rebuilding after Hurricane Andrew.

The attorney general of California has 50 attorneys working full-time doing this. Dan Lungren, who I served with in the House of Representatives, now the attorney general, has 50 lawyers working on this, all the time. They do not do anything else.

We need to make sure that the prisoners, when they file these lawsuits, they pay. There is no reason they should get the legal docket free. If they have money in the bank, let them pay. If they have a meritorious lawsuit, of course they should be able to file. I support that.

Today, our attorneys general deal with thousands of these lawsuits. I have indicated that almost none of them have any merit. The amendment establishes procedural hurdles that will prevent frivolous lawsuits.

The PRESIDING OFFICER. All time has expired.

Mr. REID. I ask unanimous consent I be allowed 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I want to say, because I saw on the floor the Senator from Arizona, Senator JON KYL, who has been extremely helpful in preparing this legislation based upon his experience in the law and the work his staff has done, and I want to compliment and applaud the Senator from Arizona.

Mr. HATCH. Mr. President, I ask unanimous consent that Senators GRASSLEY, BROWN, and HELMS be added as a cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I am an original cosponsor of the Prison

Litigation Reform Act of 1995 and was pleased to join Senator HATCH as an original cosponsor of this amendment.

We have an opportunity here to put a stop to the thousands and thousands of frivolous lawsuits filed by the prisoners across this nation. They have tied up the courts with their jailhouse lawyer antics for too long. This amendment will allow meritorious claims to be filed, but gives the judge broader discretion to prevent frivolous and malicious lawsuits filed by prison inmates.

In my home State of South Carolina, the State government last year spent well over \$1 million to defend against frivolous lawsuits filed by inmates. Compare that to 10 years ago when South Carolina spent only about \$20,000 to defend these types of lawsuits. The problem is getting worse, not better.

Mr. President, the overwhelming majority of these cases are dismissed, in fact well over 95 percent. We need to put a stop to these jailhouse lawyers who are making a mockery of our criminal justice system.

Mr. President, the other provisions in this bill will place limits on Federal judges who have been micromanaging prisoners with population caps. Our amendment requires a strong showing from the judge to justify population caps as the least intrusive means as a judicial remedy. We need this legislation. I commend Senator HATCH for offering it and I urge my colleagues to support its adoption.

Mr. HATCH. Mr. President, I ask unanimous consent that our colleague from Arizona—I do not know that there is any opposition to it. In fact, I believe we can probably get this accepted by voice vote.

I ask unanimous consent that my colleague from Arizona who has been a major mover in this area, whose attorney general was one of the major causes of this legislation be granted, I ask unanimous consent that 4 minutes be granted to the distinguished Senator from Arizona, and 1 minute to the distinguished Senator from Texas, Senator GRAMM, and 3 minutes to the distinguished Senator from South Carolina.

Mr. BIDEN. Reserving the right to object, and I will not object, I have an amendment and I have a speech. I have no problem with it being accepted. If other people are going to speak to it then I will speak to it.

I hope that we all will have learned by now, when you win, accept the victory, put the speeches in later. I hope we do that.

Stemming the tide of frivolous prisoner lawsuits is certainly an important goal.

Our courts are flooded with lawsuits brought by prisoners. The Administrative Office of the U.S. Courts reported that in fiscal year 1994, 39,100 Federal and State prisoner civil rights cases were filed in Federal court. This volume of cases drains precious court resources, further burdening an already overburdened court system.

But in solving these problems, we must not lose sight of the fact that some of these lawsuits have merit—some prisoners' rights are violated—some prisons are terribly overcrowded.

In one case, for example, children in a severely overcrowded juvenile detention center in Pennsylvania—a facility that was at 160 percent of capacity—were beaten by staff—sometimes with chains and other objects. These problems were not resolved until a court order was entered.—(Santiago versus City of Philadelphia.)

In a recent case right here in the District of Columbia, Judge June L. Green found that correctional officers had routinely sexually assaulted women prisoners—one had raped a woman prisoner, another had forced a prisoner to perform oral sex. When these conditions were reported to the D.C. correction officials, nothing was done. It was when court entered an order that the district take steps to prevent these incidents from recurring that the prisoners were able to get relief.—(Women Prisoners of D.C. Dept. of Corrections versus D.C.)

Senator HATCH's amendment has two overriding problems—first, in an effort to curb frivolous prisoner lawsuits, the amendment places too many roadblocks to meritorious prison lawsuits.

Second, in an effort to relieve the courts and State and local governments from the overwhelming task of dealing with frivolous lawsuits, Senator HATCH's amendment, in fact, creates restrictions on the power of those governments from voluntarily negotiating their own agreements and would place an even greater burden on the courts to litigate and relitigate these suits.

Because Senator HATCH's amendment makes only marginal improvements over what is already in the bill, I oppose this amendment, just as I oppose the similar provision in the committee bill.

I am willing to withhold if others are. I ask that the Senator maybe reconsider his request and accept it by voice vote and make speeches later.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BIDEN. I object.

Mr. HATCH. If my colleagues would forgo so we can pass this—we are all interested in passing it and establishing once and for all that we have to get rid of frivolous prisoner litigation.

The PRESIDING OFFICER. Did the Senator withdraw the unanimous-consent request?

Mr. HATCH. I ask unanimous consent 2 minutes be given to the distinguished Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I will take 2 minutes right now and speak in support of this legislation. I appreciate the Senator from Utah bringing it to the floor, and I also appreciate the kind comment from the Senator from Nevada.

This is clearly a bipartisan effort. Obviously, this legislation is going to pass.

I just wanted to indicate where this came from. The attorney general of Arizona, Grant Woods, brought this matter to my attention several months ago, and we brought it to the majority leader, and we introduced legislation to cut the prisoner litigation.

It has been in effect now in the State of Arizona pursuant to State law for about a year, and the prisoner litigation there has been cut in half as a result of the requirements that we place on the filing of lawsuits, by the inmates in the Arizona State system.

If you can extrapolate from the same statistics, it clearly ought to result in the reduction of delays and expenses in our Federal court system if we are able to impose the same requirements on our Federal prisoners when they attempt to litigate.

All we are doing is asking they pay the same kind of filing fees and costs that a citizen who has not committed any violation of law has to pay, and that their suits be subject to the same kind of requirements in terms of meeting the tests of a legitimate lawsuit rather than just being a frivolous lawsuit.

I think if we can extrapolate the figure to all 50 States, from the experience we had in the State of Arizona where the litigation has been cut in half, we ought to be able to save about \$81.3 million. That is a significant chunk of change that would save the United States taxpayers in addition to the benefit of unclogging the courts.

Mr. President, there is one other thing that this will do. I think it begins to send a message that prison is not necessarily a nice place. You do not have extra privileges when you go to prison. You certainly ought not to be treated any better than the average citizen.

Another part of this bill is to put impediments on "special masters," and I think by doing that we also make it clear we regain control of the Federal court system, and we do not just allow the Federal judges to dictate to the States how their prison systems will be run. I am pleased the legislation will be adopted and pleased to express my views.

I ask unanimous consent to have frivolous lawsuit lists printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TOP 10 LIST: FRIVOLOUS INMATE LAWSUITS IN ARIZONA

(10) Death row inmate has sued corrections officials for taking away his Gameboy electronic name. (Donald Edward Beaty v. Bury)

(9) An inmate brought a suit demanding \$110 million because of a delay in receiving a dental appointment for a toothache. (Beasley v. Howard)

(8) An inmate convicted of murder and a subsequent escape attempt brought a suit based on the denial of dental floss. Anzivilo v. Lewis)

(7) An inmate brought suit for damages to his electric typewriter and fan. He alleges the damage was done because prison officials did not allow him to have a surge protector in his cell. (Prison officials disallow surge protectors because they can be easily fashioned into lethal weapons.) (Souch v. State)

(6) An inmate alleged his First Amendment right to freedom of religion was being denied because he was not allowed to have conjugal visits. (Jamison v. ADOC)

(5) An inmate alleged he was libeled and slandered by a female prison official who referred him to disciplinary action after he continually walked into the restroom she was using. (Holt v. Grant)

(4) An inmate sued because he was not allowed to reside with his spouse, who is a fellow prison inmate. The inmate is a convicted murderer, while his spouse, whom he has met only at their prison marriage ceremony, is a convicted kidnaper. (Boyd v. Lewis)

(3) An inmate alleges that the Department of Corrections failed to properly rehabilitate him. Therefore, when he was released on parole he was arrested and convicted of another crime, which resulted in more jail time. (Kabage v. ADOC)

(2) A male inmate sued alleging his constitutional rights were violated by the refusal of prison officials to allow him to have and wear a brassieres. (Taylor V. Adams)

(1) An inmate alleges that the correction officials have retaliated against him. Part of that retaliation he alleges occurred when he was not invited to a pizza party thrown for a departing DOC employee. (Dickinson v. El-Hott)

TOP 10 FRIVOLOUS INMATE LAWSUITS NATIONALLY

(10) Inmate claimed \$1 million in damages for civil rights violation because his ice cream had melted. The judge ruled that the "right to eat ice cream . . . was clearly not within the contemplation" of our Nation's forefathers. (NT—Clendenin v. State)

(9) Inmate alleged that being forced to listen to his unit manager's country and western music constituted cruel and unusual punishment. (OK—Watkins v. Sutton)

(8) Inmate sued because when he got his dinner tray, the piece of cake on it was "hacked up." (NV—Banks v. Hatcher)

(7) Inmate sued because he was served chunky instead of smooth peanut butter. (TX—Thomas v. State)

(6) Two prisoners sued to force taxpayers to pay for sex-change surgery while they were in prison. (PA—Brown v. Jeffes and Doe v. Vaughn)

(5) Inmate sued for \$100 million alleging he was told that he would be making \$29.40 within three months, but only made \$21. (KS—Williams v. Dept. of Corrections)

(4) Inmate claimed that his rights were violated because he was forced to send packages via UPS rather than U.S. mail. (CA—Alcala v. Vanquez)

(3) Prisoner sued demanding L.A. Gear or Reebok "Pumps" instead of Converse. (UT—Winsness v. DeLand)

(2) Prisoner sued 66 defendants alleging that unidentified physicians implanted mind control devices in his head. (MI—Doran v. McGinnis)

(1) Death row inmate sued corrections officials for taking away his Gameboy electronic game. (AZ—Donald Edward Beaty v. Bury)

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2838) was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROWN. I ask unanimous consent I be allowed to proceed in morning business for 60 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

COLORADO BUFFALOES

Mr. BROWN. Mr. President, Coloradans were devastated to learn that the Colorado Buffaloes had no chance whatever to win our football game this weekend with Oklahoma.

Early in the week the Oklahoma Coach Schnellenberger said, referring to our Colorado team, "Our football team would prefer Detmer play. I don't want a damn asterisk when we beat their posteriors." Actually, I believe he used a different term than "posterior."

Upon being advised of the Oklahoma coach's statement implying the game's result was a foregone conclusion, our Colorado Coach, Rick Neuheisel, inquired if it would be OK if our team showed up anyway. He indicated that Colorado already paid the rent on the plane and would have a great deal of trouble getting our deposit back if we did not show up.

Mr. President, Oklahoma's reputation as being a great football power is legendary. The Golden Buffs feel honored to merely be able to appear with them in Memorial Stadium in Norman, OK. Our only hope is that the Oklahoma Sooners will be gentle with us.

Mr. SMITH. Mr. President, I ask unanimous consent to speak in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. MARINE CORPS

Mr. SMITH. Mr. President, I rise today to bring to the attention of my colleagues a very insightful and compelling portrayal of the U.S. Marine Corps. In yesterday's Washington Post, George Will provides a heartfelt tribute to the culture and character our Nation's premier 911 force. It is an excellent editorial which I encourage all of my colleagues to review.

As Mr. Will so appropriately points out, the U.S. Marine Corps is a very unique institution. Its culture is rich with tradition, its character strong on conviction. Honor, discipline, valor, and fidelity are its virtues; dedication, sacrifice, and commitment its code. To those who willingly join this elite society, service is not merely an occupation, it is a way of life.

Mr. President, as we grapple with the challenges of balancing the Federal budget and downsizing our military force structure, there is much we can learn from the U.S. Marine Corps. The men and women of our Corps have experienced fiscal adversity first hand. For decades they have endured shortfalls in procurement, operations, and

the Congress has not enacted a joint resolution disapproving the plan in accordance with subsection (d).

(b) **RESTRICTION ON SALARIES AND EXPENSES.**—None of the funds appropriated or otherwise made available in this title may be expended to finance salaries and expenses for the Agency for International Development, the United States Information Agency, and the United States Arms Control and Disarmament Agency except in accordance with the terms and requirements of sections 402 and sections 605 of this Act.

(c) **ADDITIONAL REQUIREMENTS.**—A plan described in subsection (a) is a plan—

(1) which is submitted by the President to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives within 60 days of the date of enactment of this Act; and

(2) which contains a certification and accounting by the Director of the Office of Management and Budget that the Director estimates the plan will provide for a savings in budgetary authority in the major budget functional category 150 (relating to international affairs) \$2,700,000,000 during the period beginning October 1, 1995 and ending September 30, 1999.

(d) **CONSIDERATION OF PLANS.**—Any such plan submitted under subsection (c)(1) shall be considered under the procedures of subsections (c), (d), (e), (f), and (g) of section 2908 of Public Law 101-510, except that—

(1) any reference therein to a resolution shall apply to a joint resolution introduced into a House of Congress by the Majority Leader of that House proposing the plan; the 20-day period referred to in section 2908(c) shall commence on the date the joint resolution is introduced;

(2) one germane floor amendment shall be in order, and debate thereon limited to one hour, equally divided in the usual form;

(3) section 2908(e) shall apply only if the text of the joint resolutions of each House are identical;

(4) if they are not identical, debate on any motion to resolve differences between the Houses and any conference report on such joint resolution shall be limited to one hour; and

(5) debate on any veto message on such joint resolution shall be limited to one hour.

#### AMENDMENT NO. 2836

On page 95, after line 7, before the period at the end of the line insert the following proviso: "Provided further, That of the funds appropriated or otherwise made available in this paragraph, \$38,327,600 shall be available only after a plan that merges and consolidates the functions and activities of the Agency for International Development, the United States Information Agency, and the United States Arms Control and Disarmament Agency into the Department of State or other appropriate agencies has been submitted to Congress, and not disapproved by statutory enactment, in accordance with this paragraph: *Provided further*, That none of the funds appropriated under this title may be expended to finance salaries and expenses for the Agency for International Development, the United States Information Agency, and the United States Arms Control and Disarmament Agency except in accordance with the terms and requirements of sections 402 and sections 605 of this Act: *Provided further*, That such a plan shall be submitted to the Committees on Appropriations and on Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives: *Provided further*, That the

President shall submit such plan within 60 days of the date of enactment of this Act: *Provided further*, That the President's plan shall provide for a budgetary savings in the major budget functional category 150 (relating to international affairs) \$2,700,000,000 during the period beginning October 1, 1995 and ending September 30, 1999. *Provided further*, That these savings shall be accounted for and certified by the Director of the Office of Management and Budget at the time the plan is submitted: *Provided further*, That any such plan submitted under this paragraph shall be considered under the procedures of subsections (c), (d), (e), (f), and (g) of section 2908 of Public Law 101-510, except for the following conditions: That any reference therein to a resolution shall apply to the joint resolution introduced by the Majority Leaders of each House proposing the plan; the 20-day period referred to in section 2908(c) shall commence on the date the joint resolution is introduced; one germane floor amendment shall be in order, and debate thereon limited to one hour, equally divided in the usual form; section 2908(e) shall apply only if the text of the joint resolutions of each House are identical; if they are not identical, debate on any motion to resolve differences between the Houses and any conference report on such joint resolution shall be limited to one hour; and debate on any veto message on such joint resolution shall be limited to one hour."

#### AMENDMENT NO. 2837

At the appropriate place in the bill, insert the following new section:

#### SEC. . EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY CLAIMED BY NATIONALS OF THE UNITED STATES.

(a) **LIMITATION.**—(1) Subject to subsection (b), none of the funds appropriated or otherwise made available by this Act or any other Act for any fiscal year shall be made available for the issuance of a visa to, or the admission to the United States of, any alien who has confiscated, or has directed or overseen the confiscation of, property the claim to which is owned by a national of the United States, or converts or has converted for personal gain confiscated property the claim to which is owned by a national of the United States.

(2) Nothing in this subsection may be construed or applied as inconsistent with the North American Free Trade Agreement, the General Agreement on Tariffs and Trade, or any other applicable international agreement.

(b) **EXCEPTIONS.**—Subsection (a) shall not apply to claims arising from territory in dispute as a result of war between United Nations member states in which the ultimate resolution of the disputed territory has not been resolved.

(c) **REPORT REQUIREMENT.**—(1) The United States Embassy in each country shall provide the Secretary of State with a list of foreign nationals in that country who have confiscated properties of United States citizens and have not fully resolved the cases with the United States citizens.

(2) No later than six months after the date of the enactment of this Act, the Secretary of State shall submit each list provided under paragraph (1) to the appropriate congressional committees.

(3) Not later than one year after the date of the enactment of this Act, and not later than February 1 of each year thereafter, the Secretary of State shall submit to the appropriate congressional committees a list of foreign nationals denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of foreign nationals refused entry to the United States, as a result of this section.

#### HATCH (AND OTHERS) AMENDMENT NO. 2838

Mr. HATCH (for himself, Mr. DOLE, Mr. REID, Mr. THURMOND, Mr. SPECTER, Mr. KYL, Mr. ABRAHAM, Mrs. HUTCHISON, Mr. GRAMM, Mr. SANTORUM, Mr. GRASSLEY, Mr. BROWN, Mr. D'AMATO, Mr. MCCONNELL, and Mr. HELMS) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place, insert the following new title:

#### TITLE VIII—PRISON LITIGATION REFORM SEC. 801. SHORT TITLE.

This title may be cited as the "Prison Litigation Reform Act of 1995".

#### SEC. 802. 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) **PROSPECTIVE RELIEF.**—(A) Prospective relief in any civil action with respect to prison conditions shall extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. 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.

"(B) Nothing in this section shall be construed to authorize the courts, in exercising their remedial powers, to order the construction of prisons or the raising of taxes, or to repeal or detract from otherwise applicable limitations on the remedial powers of the courts.

"(2) **PRELIMINARY INJUNCTIVE RELIEF.**—In any civil action with respect to prison conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief. Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. Preliminary injunctive relief shall automatically expire on the date that is 90 days after its entry, unless the court makes the findings required under subsection (a)(1) for the entry of prospective relief and makes the order final before the expiration of the 90-day period.

"(3) **PRISONER RELEASE ORDER.**—(A) In any civil action with respect to prison conditions, no prisoner release order shall be entered unless—

"(i) a court has previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied through the prisoner release order; and

"(ii) the defendant has had a reasonable amount of time to comply with the previous court orders.

"(B) In any civil action in Federal court with respect to prison conditions, a prisoner release order shall be entered only by a three-judge court in accordance with section 2284 of title 28, if the requirements of subparagraph (E) have been met.

"(C) A party seeking a prisoner release order in Federal court shall file with any request for such relief, a request for a three-

judge court and materials sufficient to demonstrate that the requirements of subparagraph (A) have been met.

"(D) If the requirements under subparagraph (A) have been met, a Federal judge before whom a civil action with respect to prison conditions is pending who believes that a prison release order should be considered may sua sponte request the convening of a three-judge court to determine whether a prisoner release order should be entered.

"(E) The court shall enter a prisoner release order only if the court finds—

"(I) by clear and convincing evidence—

"(I) that crowding is the primary cause of the violation of a Federal right; and

"(II) that no other relief will remedy the violation of the Federal right; and

"(i) by a preponderance of the evidence—

"(I) that crowding has deprived a particular plaintiff or plaintiffs of at least one essential, identifiable human need; and

"(II) that prison officials have acted with obduracy and wantonness in depriving the particular plaintiff or plaintiffs of the one essential, identifiable human need caused by the crowding.

"(F) Any State or local official or unit of government whose jurisdiction or function includes the prosecution or custody of persons who may be released from, or not admitted to, a prison as a result of a prisoner release order shall have standing to oppose the imposition or continuation in effect of such relief and to seek termination of such relief, and shall have the right to intervene in any proceeding relating to such relief.

"(b) TERMINATION OF RELIEF.—

"(1) TERMINATION OF PROSPECTIVE RELIEF.—

(A) In any civil action with respect to prison conditions in which prospective relief is ordered, such relief shall be terminable upon the motion of any party—

"(i) 2 years after the date the court granted or approved the prospective relief;

"(ii) 1 year after the date the court has entered an order denying termination of prospective relief under this paragraph; or

"(iii) in the case of an order issued on or before the date of enactment of the Prison Litigation Reform Act, 2 years after such date of enactment.

"(B) Nothing in this section shall prevent the parties from agreeing to terminate or modify relief before the relief is terminated under subparagraph (A).

"(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 the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

"(3) LIMITATION.—Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation.

"(4) TERMINATION OR MODIFICATION OF RELIEF.—Nothing in this section shall prevent any party from seeking modification or termination before the relief is terminable under paragraph (1) or (2), to the extent that modification or termination would otherwise be legally permissible.

"(c) SETTLEMENTS.—

"(1) CONSENT DECREES.—In any civil action with respect to prison conditions, the court

shall not enter or approve a consent decree unless it complies with the limitations on relief set forth in subsection (a).

"(2) PRIVATE SETTLEMENT AGREEMENTS.—(A) Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with the limitations on relief set forth in subsection (a), if the terms of that agreement are not subject to court enforcement other than the reinstatement of the civil proceeding that the agreement settled.

"(B) Nothing in this section shall preclude any party claiming that a private settlement agreement has been breached from seeking in State court any remedy for breach of contract available under State law.

"(d) STATE LAW REMEDIES.—The limitations on remedies in this section shall not apply to relief entered by a State court based solely upon claims arising under State law.

"(e) 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)(i) beginning on the 30th day after such motion is filed, in the case of a motion made under paragraph (1) or (2) of subsection (b); or

"(ii) beginning on the 180th day after such motion is filed, in the case of a motion made under subsection (b)(4); and

"(B) ending on the date the court enters a final order ruling on the motion.

"(f) SPECIAL MASTERS.—

"(1) IN GENERAL.—(A) In any civil action in a Federal court with respect to prison conditions, the court may appoint a disinterested and objective special master, who will give due regard to the public safety, to conduct hearings on the record and prepare proposed findings of fact.

"(B) The court shall appoint a special master under this subsection during the remedial phase of the action only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

"(2) APPOINTMENT.—(A) If the court determines that the appointment of a special master is necessary, the court shall request that the defendant institution and the plaintiff each submit a list of not more than 5 persons to serve as a special master.

"(B) Each party shall have the opportunity to remove up to 3 persons from the opposing party's list.

"(C) The court shall select the master from the persons remaining on the list after the operation of subparagraph (B).

"(3) INTERLOCUTORY APPEAL.—Any party shall have the right to an interlocutory appeal of the judge's selection of the special master under this subsection, on the ground of partiality.

"(4) COMPENSATION.—The compensation to be allowed to a special master under this section shall be based on an hourly rate not greater than the hourly rate established under section 3006A for payment of court-appointed counsel, plus costs reasonably incurred by the special master. Such compensation and costs shall be paid with funds appropriated to the Federal Judiciary.

"(5) REGULAR REVIEW OF APPOINTMENT.—In any civil action with respect to prison conditions in which a special master is appointed under this subsection, the court shall review the appointment of the special master every 6 months to determine whether the services of the special master continue to be required under paragraph (1). In no event shall the appointment of a special master extend beyond the termination of the relief.

"(6) LIMITATIONS ON POWERS AND DUTIES.—A special master appointed under this subsection—

"(A) shall make any findings based on the record as a whole;

"(B) shall not make any findings or communications ex parte; and

"(C) may be removed at any time, but shall be relieved of the appointment upon the termination of relief.

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

"(1) the term 'consent decree' means any relief entered by the court that is based in whole or in part upon the consent or acquiescence of the parties but does not include private settlements;

"(2) the term 'civil action with respect to prison conditions' means any civil proceeding arising under Federal law with respect to the conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison, but does not include habeas corpus proceedings challenging the fact or duration of confinement in prison;

"(3) the term 'prisoner' means any person subject to incarceration, detention, or admission to any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program;

"(4) the term 'prisoner release order' includes any order, including a temporary restraining order or preliminary injunctive relief, that has the purpose or effect of reducing or limiting the prison population, or that directs the release from or nonadmission of prisoners to a prison;

"(5) 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;

"(6) the term 'private settlement agreement' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled;

"(7) the term 'prospective relief' means all relief other than compensatory monetary damages; and

"(8) the term 'relief' means all relief in any form that may be granted or approved by the court, and includes consent decrees but does not include private settlement agreements."

(b) APPLICATION OF AMENDMENT.—

(1) IN GENERAL.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all prospective relief whether such relief was originally granted or approved before, on, or after the date of the enactment of this title.

(2) TECHNICAL AMENDMENT.—Subsections (b) and (d) of section 20409 of the Violent Crime Control and Law Enforcement Act of 1994 are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended to read as follows:

"3626. Appropriate remedies with respect to prison conditions."

SEC. 903. AMENDMENTS TO CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.

(a) INITIATION OF CIVIL ACTIONS.—Section 3(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997a(c)) (referred to in this section as the "Act") is amended to read as follows:

"(c) The Attorney General shall personally sign any complaint filed pursuant to this section."

(b) CERTIFICATION REQUIREMENTS.—Section 4 of the Act (42 U.S.C. 1997b) is amended—

(1) in subsection (a)—  
 (A) by striking "he" each place it appears inserting "the Attorney General"; and  
 (B) by striking "his" and inserting "the Attorney General's"; and  
 (2) by amending subsection (b) to read as follows:

"(b) The Attorney General shall personally sign any certification made pursuant to this section."

(c) INTERVENTION IN ACTIONS.—Section 5 of the Act (42 U.S.C. 1997c) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by amending paragraph (2) to read as follows:

"(2) The Attorney General shall personally sign any certification made pursuant to this section."; and

(2) by amending subsection (c) to read as follows:

"(c) The Attorney General shall personally sign any motion to intervene made pursuant to this section."

(d) SUITS BY PRISONERS.—Section 7 of the Act (42 U.S.C. 1997e) is amended to read as follows:

"SEC. 7. SUITS BY PRISONERS.

"(a) APPLICABILITY OF ADMINISTRATIVE REMEDIES.—No action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

"(b) FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE GRIEVANCE PROCEDURE.—The failure of a State to adopt or adhere to an administrative grievance procedure shall not constitute the basis for an action under section 3 or 5 of this Act.

"(c) DISMISSAL.—(1) The court shall on its own motion or on the motion of a party dismiss any action brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other law, by a prisoner confined in any jail, prison, or other correctional facility if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

"(2) In the event that a claim is, on its face, frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief, the court may dismiss the underlying claim without first requiring the exhaustion of administrative remedies.

"(d) ATTORNEY'S FEES.—(1) In any action brought by a prisoner who is confined to any jail, prison, or other correctional facility, in which attorney's fees are authorized under section 2 of the Revised Statutes of the United States (42 U.S.C. 1983), such fees shall not be awarded, except to the extent that—

"(A) the fee was directly and reasonably incurred in proving an actual violation of the plaintiff's rights protected by a statute pursuant to which a fee may be awarded under section 2 of the Revised Statutes; and  
 "(B) the amount of the fee is proportionately related to the court ordered relief for the violation.

"(2) Whenever a monetary judgment is awarded in an action described in paragraph (1), a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant. If the award of attorney's fees is greater than 25 percent of the judgment, the excess shall be paid by the defendant.

"(3) No award of attorney's fees in an action described in paragraph (1) shall be based on an hourly rate greater than the hourly rate established under section 3006A of title 18, United States Code, for payment of court-appointed counsel.

"(4) Nothing in this subsection shall prohibit a prisoner from entering into an agreement to pay an attorney's fee in an amount greater than the amount authorized under this subsection, if the fee is paid by the individual rather than by the defendant pursuant to section 2 of the Revised Statutes of the United States (42 U.S.C. 1983).

"(e) LIMITATION ON RECOVERY.—No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

"(f) HEARINGS.—To the extent practicable, in any action brought with respect to prison conditions in Federal court pursuant to section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other law, by a prisoner confined in any jail, prison, or other correctional facility, pretrial proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone or video conference without removing the prisoner from the facility in which the prisoner is confined.

"(g) WAIVER OF REPLY.—(1) Any defendant may waive the right to reply to any action brought by a prisoner confined in any jail, prison, or other correctional facility under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) or any other law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

"(2) The court may, in its discretion, require any defendant to reply to a complaint commenced under this section.

"(h) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program."

(e) REPORT TO CONGRESS.—Section 8 of the Act (42 U.S.C. 1997f) is amended by striking "his report" and inserting "the report".

(f) NOTICE TO FEDERAL DEPARTMENTS.—Section 10 of the Act (42 U.S.C. 1997h) is amended—

(1) by striking "his action" and inserting "the action"; and

(2) by striking "he is satisfied" and inserting "the Attorney General is satisfied".

SEC. 804. PROCEEDINGS IN FORMA PAUPERIS.

(a) FILING FEES.—Section 1915 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) Any" and inserting "(a)(1) Subject to subsection (b), any";

(B) by striking "and costs";

(C) by striking "makes affidavit" and inserting "submits an affidavit";

(D) by striking "such costs" and inserting "such fees";

(E) by striking "he" each place it appears and inserting "the person";

(F) by adding immediately after paragraph (1), the following new paragraph:

"(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for

the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined."; and

(G) by striking "An appeal" and inserting "(3) An appeal";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess, and when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

"(A) the average monthly deposits to the prisoner's account; or

"(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

"(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

"(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

"(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee."

(4) in subsection (c), as redesignated by paragraph (2), by striking "subsection (a) of this section" and inserting "subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b)"; and

(5) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) The court may request an attorney to represent any person unable to afford counsel.

"(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

"(A) the allegation of poverty is untrue; or

"(B) the action or appeal—

"(i) is frivolous or malicious;

"(ii) fails to state a claim on which relief may be granted; or

"(iii) seeks monetary relief against a defendant who is immune from such relief."

(b) COSTS.—Section 1915(f) of title 28, United States Code (as redesignated by subsection (a)(2)), is amended—

(1) by striking "(f) Judgment" and inserting "(f)(1) Judgment";

(2) by striking "cases" and inserting "proceedings"; and

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

"(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

"(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

"(C) In no event shall the costs collected exceed the amount of the costs ordered by the court."

(c) SUCCESSION CLAIMS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury."

(d) DEFINITION.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(b) As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program."

SEC. 994. JUDICIAL SCREENING. (a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by inserting after section 1915 the following new section: "§ 1915A. Screening"

"(a) SCREENING.—The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity."

"(b) GROUNDS FOR DISMISSAL.—On review, the court shall dismiss the complaint, or any portion of the complaint, if the complaint—

"(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or

"(2) seeks monetary relief from a defendant who is immune from such relief."

"(c) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program."

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915 the following new item: "§ 1915A. Screening."

SEC. 995. FEDERAL TORT CLAIMS.

Section 1346(b) of title 28, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury."

SEC. 997. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1932. Revocation of earned release credit"

"In any civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of such earned good time credit under section 3624(b) of title 18, United States Code, that has not yet vested, if, on its own motion or the motion of any party, the court finds that—

"(1) the claim was filed for a malicious purpose;

"(2) the claim was filed solely to harass the party against which it was filed; or

"(3) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court."

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1931 the following:

"1932. Revocation of earned release credit."

(c) AMENDMENT OF SECTION 3624 OF TITLE 18.—Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the first sentence;

(B) in the second sentence—

(i) by striking "A prisoner" and inserting "Subject to paragraph (2), a prisoner";

(ii) by striking "for a crime of violence."; and

(iii) by striking "such";

(C) in the third sentence, by striking "by the Bureau" and inserting "Subject to paragraph (2), if the Bureau";

(D) by striking the fourth sentence and inserting the following: "In awarding credit under this section, the Bureau shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree."; and

(E) in the sixth sentence, by striking "Credit for the last" and inserting "Subject to paragraph (3), credit for the last"; and

(2) by amending paragraph (2) to read as follows:

"(2) Notwithstanding any other law, credit awarded under this subsection after the date of enactment of the Prison Litigation Reform Act shall vest on the date the prisoner is released from custody."

HELMS AMENDMENT NO. 2839

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill H.R. 2076, supra, as follows:

In the paragraph under the heading "ARMS CONTROL AND DISARMAMENT ACTIVITIES", strike all after "\$——" and insert the following: "Provided, That none of the funds appropriated or otherwise made available under this heading may be available to carry out any purpose other than—

"(1) the abolition of the United States Arms Control and Disarmament Agency on a date which is not later than 90 days after the date of enactment of this Act,

"(2) the transfer to the Secretary of State prior to the abolition of the Agency of all functions vested by law in, or exercised by, the Director of the Agency, the Agency itself, or any officer, employee, or component thereof, immediately prior to the date of transfer, and

"(3) the transfer to the Secretary of State prior to the abolition of the Agency of all personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations and other funds employed, used, held, arising from, available to, and to be made available in connection with, functions transferred under paragraph (2)."

BRYAN (AND OTHERS)

AMENDMENT NO. 2840

Mr. BRYAN (for himself, Mr. BURNS Mr. HOLLINGS, Mr. MCCONNELL, Mr. INOUE, Mr. AKAKA, Mr. GRAHAM, Mr. MURKOWSKI, Mr. REID, Mr. BREAUX, Mr. DASCHLE, Mrs. BOXER, Mr. PRESSLER, and Mr. THURMOND.

At the appropriate place, insert the following:

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration, for implementing the recommendations from the White House Conference on Travel and Tourism and for carrying out the transition of that Administration into a public-private partnership, \$12,000,000, to be transferred from the amount for deposit in the Commerce Reorganization Transition Fund (established under section 206(c)(1) of this title) that is made available in the item under the heading "COMMERCE REORGANIZATION TRANSITION FUND" under the heading "GENERAL ADMINISTRATION" under this title, notwithstanding any other provision of law.

SPECTER (AND OTHERS) AMENDMENT NO. 2841

Mr. SPECTER (for himself, Mr. COHEN, Mr. JEFFORDS, Ms. SNOWE, and Ms. MIKULSKI) proposed an amendment to the bill H.R. 2076, supra, as follows: On page 34, strike lines 1 through 7.

GREGG (AND OTHERS) AMENDMENT NO. 2842

Mr. GREGG (for himself, Mr. LIEBERMAN, Mr. DOMENICI, Mr. D'AMATO, and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2076, supra, as follows:

At the appropriate place insert the following:

It is the sense of the Senate that none of the funds appropriated or otherwise made available pursuant to this act should be used for the deployment of combat-equipped forces of the Armed Forces of the United States for any ground operations in Bosnia and Herzegovina unless—

(1) Congress approves in advance the deployment of such forces of the Armed Forces; or

(2) the temporary deployment of such forces of the Armed Forces of the United States into Bosnia and Herzegovina is necessary to evacuate United Nations peace-keeping forces from a situation of imminent danger, to undertake emergency air rescue operations, or to provide for the airborne delivery of humanitarian supplies, and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than 48 hours after the initiation of the deployment.

KOHL (AND OTHERS) AMENDMENT NO. 2843

Mr. KOHL (for himself, Mr. COHEN, and Mr. KERRY) proposed an amendment to the bill H.R. 2076, supra, as follows:

On page 15, line 16, strike "\$282,500,000" and insert "\$202,500,000".

On page 15, line 23, strike "\$168,280,000" and insert "\$88,280,000".

On page 25, line 19, strike "\$100,900,000" and insert "\$130,900,000".

On page 25, line 22, insert "\$30,000,000 shall be for the Local Crime Prevention Block Grant Program, as authorized by section 30201 of the Violent Crime Control and Law Enforcement Act of 1994," before "\$4,250,000".

On page 27, line 5, strike "\$50,000,000" and insert "\$30,000,000".



MS. DOC #17