



Legislative Bulletin.....March 8, 2006

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Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: Several, noted below in Children’s bill

Total Cost of Discretionary Authorizations: \$1.383 billion over five years, 1 million a year in perpetuity for the Clinton home,

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: Several, noted below in Children’s bill

Total New Private Sector Mandates: Several, noted below in Children’s bill

Number of Bills Without Committee Reports: 1

Number of Reported Bills that Don’t Cite Specific Clauses of Constitutional Authority: 3

H.R. 2383 – To redesignate the facility of the Bureau of Reclamation located at 19550 Kelso Road in Byron, California, as the “C.W. ‘Bill’ Jones Pumping Plant”– as introduced (Rogers, R-MI)

Order of Business: The bill is scheduled for consideration on Wednesday, March 8th, 2006, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2383 designates the facility of the Bureau of Reclamation located at 19550 Kelso Road in Byron, California, (currently known as the Tracy Pumping Plant), as the “C.W. ‘Bill’ Jones Pumping Plant.”

Additional Information: According to Committee Report 109-247, Bill Jones was a pioneer in California water development and policy. In 1968, Jones was appointed to the State Water Commission by then Governor Ronald Reagan, served as President of the Delta Mandota Water Authority for 20 years, and served as a director of the Firebaugh Canal Company for over 40 years. Jones passed away in 2003.

Committee Action: H.R. 2383 was introduced on May 16, 2005, and referred to the House Committee on Resources, which held a mark-up and reported the bill to the House by unanimous consent on September 22, 2005.

Cost to Taxpayers: Although there is no cost estimate available for H.R. 2383, a redesignation typically yields no significant cost to the taxpayer.

Does the Bill Expand the Size and Scope of the Federal Government?: No

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The Committee finds authority in Article I, Section 8 of the Constitution, but fails to cite a specific clause.

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H.R. 1190 — San Diego Water Storage and Efficiency Act of 2005 — as amended (Hunter, R-CA)

Order of Business: The bill, as amended, is scheduled for consideration on Wednesday, March 8th, 2006, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1190 authorizes the Secretary of the Interior to work with the City of San Diego and the Sweetwater Authority to undertake a **new** study to determine the feasibility of constructing a four reservoir intertie system (a transmission line that links regional electric power systems) to improve water storage opportunities, water supply reliability, and water yield of the existing non-Federal water storage system. The study would have to document the Secretary’s engineering, environmental, and economic investigation of the proposed reservoir and intertie project taking into consideration the range of potential solutions and the circumstances and needs of the area to be served by

the proposed reservoir and intertie project, the potential benefits to the people of that service area, and improved operations of the proposed reservoir and intertie system. H.R. 1190 caps the federal cost of the study at 50%. However, the bill authorizes the Secretary to accept as part of the non-federal cost share, any contribution of such in-kind services by the City of San Diego and the Sweetwater Authority that he determines will contribute toward the conduct and completion of the study.

The Secretary would be directed to submit to Congress a feasibility report for the project that the Secretary recommends, and to seek, as the Secretary deems appropriate, specific authority to develop and construct any recommended project. The report would have to include--

- good faith letters of intent by the City of San Diego and the Sweetwater Authority and its non-Federal partners to indicate that they have committed to share the allocated costs as determined by the Secretary; and
- a schedule identifying the annual operation, maintenance, and replacement costs that should be allocated to the City of San Diego and the Sweetwater Authority, as well as the current and expected financial capability to pay operation, maintenance, and replacement costs.

The bill authorizes up to \$3 million for the federal cost share for the feasibility study. In addition, H.R. 1190 terminates the authority of the Secretary to carry out any provisions in the Act (after 10 years).

Additional Information: According to the Committee Report 109-321, “the Sweetwater Authority is the third largest water retailer in San Diego County and serves residential and commercial customers in Chula Vista, National City, and Bonita, California. In cooperation with the City of San Diego, the Authority operates a number of reservoirs. The Authority and the City of San Diego are requesting federal assistance, through the Secretary of the Interior, to examine the feasibility of connecting four of those reservoirs (San Vicente, El Capitan, Loveland, and Murray) to make more efficient use of storage capacity.”

Committee Action: H.R. 1190 was introduced on March 9, 2005, and referred to the House Committee on Resources, which held a mark-up, amended the bill, and reported it to the House by unanimous consent on November 16, 2005.

Cost to Taxpayers: CBO estimates implementation of H.R. 1190 will cost \$3 million over two years.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill would authorize \$3 million for a new feasibility study.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The Committee finds authority in Article I, Section 8 of the Constitution, but fails to cite a specific clause.

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H.R. 4192 — To authorize the Secretary of the Interior to designate the President William Jefferson Clinton Birthplace Home in Hope, Arkansas, as a National Historic Site and unit of the National Park System, and for other purposes (*Rep. Ross, D-AR*)

Order of Business: The bill is scheduled for consideration on Wednesday, March 8, 2006, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4192 would direct the National Park Service (NPS) to designate the William Jefferson Clinton Birthplace Home in Arkansas as a national historic site and a unit of the National Park System, if the Clinton Birthplace Foundation donates the house and related property to the federal government. The property is located at 117 South Hervey Street in Hope, Arkansas.

Additional Information: The residence in Hope, Arkansas is the birthplace of the 42nd President of the United States. According to Committee Report No. 109-322, the property is currently owned and operated by the Clinton Birthplace Foundation in conjunction with the Clinton Center. The Clinton Birthplace Foundation was formed in 1993, as a non-profit corporation to serve the historic preservation opportunities in President Clinton's home state.

The NPS currently manages 32 presidential sites. These include the homes of Presidents George Washington, Abraham Lincoln, John Adams and John Quincy Adams, Andrew Johnson, Franklin Delano Roosevelt, Harry Truman, Herbert Hoover, James Garfield, John Kennedy, Lyndon Johnson, Martin Van Buren, William Howard Taft. Congress has passed a similar authorization for the Ronald Reagan Boyhood Home, but no land has been acquired yet by NPS.

Committee Action: H.R. 4192 was introduced on November 1, 2005, and referred to the House Committee on Resources, which held a mark-up and reported the bill to the House by unanimous consent on November 16, 2005.

Cost to Taxpayers: Based on information provided by the NPS, CBO expects that the federal government would accept the donation of the Clinton home and other property in fiscal year 2006. CBO estimates that the costs of preparing and operating the site as a unit of the National Park System would be approximately \$1 million each year, subject to appropriations.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill adds additional property to the federal park service.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: The Committee finds authority in Article I, Section 8 of the Constitution (the Powers of Congress), but does not site a specific clause.

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H.R. 4472 — Children’s Safety and Violent Crime Reduction Act of 2005 (Sensenbrenner, R-WI)

Order of Business: The bill is scheduled for consideration on Wednesday, March 8, 2006, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4472 is a combination of three separate bills that have each previously passed the House in the 109th Congress: the Children’s Safety Act (H.R. 3132), Secure Access to Justice and Court Protection Act (H.R. 1751), and the Gang Deterrence and Community Protection Act (H.R. 1279).

H.R. 4472 would make modifications to the new national sex offender registration program, expand the use of DNA to identify and prosecute sex offenders, increase penalties for sexual offenses against children, and make other modifications and expansions of federal law relating to child safety (Titles I-VI, from H.R. 3132).

Note: This bill originally passed with a Rep. Conyers amendment regarding hate-crimes, which is not included in H.R. 4472. For more information, please see this RSC Legislative Bulletin:

http://www.house.gov/pence/rsc/doc/LB_091405_Childrens_Safety_Act_Amendments.pdf.

The bill would establish mandatory minimum-prison sentences for certain crimes committed against judges and certain public safety officers and their families. It would provide increased court security through the U.S. Marshals Service and provide new grants to states to increase the security of courts, protect witnesses, and create threat assessment databases. It would increase the mandatory minimum-federal sentences for the crimes of murder in the second degree and manslaughter (Title VII, from H.R. 1751).

The bill would create a new program for the Department of Justice to work with state and local authorities to investigate and prosecute criminal street gangs. The measure broadens current punishment and prohibition in federal law addressing criminal street gang activity and provides for the federal prosecution of juveniles 16 years of age and

older who commit acts of violence (Title VIII, from H.R. 1279). The specific provisions of the bill are described below by title:

Title I: Sex Offender Registration and Notification Act.

- Requires each jurisdiction to maintain a jurisdiction-wide sex offender registry and specifies the requirements for the registry.
- Requires a sex offender to register, and keep the registration current, in each jurisdiction where the offender resides, where the offender is an employee, and where the offender is a student;
- Requires the sex offender to initially register 1) before completing a sentence of imprisonment which required registration and 2) not later than 5 days after being sentenced for that offense if the sex offender is not sentenced to a term of imprisonment;
- Requires a sex offender to inform each jurisdiction involved, not later than 5 days after each change of residence, employment, or student status;
- Requires each jurisdiction to provide a criminal penalty that includes a maximum term of imprisonment that is greater than one year, for the failure of a sex offender to comply with the requirements of this title.
- Specifies the information that the sex offender must provide when registering with authorities to include: the offender's social security number, the address and location of their residence, employer, license plate number, photograph, and DNA sample.
- Requires the jurisdiction in which the sex offender registers to keep the registration current for life if the offense is against a minor, a serious sex offense or a second misdemeanor sex offense against a minor; and for 20 years in every other case.
- Requires the sex offender to appear in person at least once every six months to verify their registry on file.
- Requires that the sex offender be notified of their responsibilities to register prior to release from custody and immediately after sentencing for the offense requiring the duty to register.
- Requires the residence of each registered sex offender to be verified at least monthly; requires address verification quarterly for sex offenders required to register because of a misdemeanor sex offense against a minor.
- Directs the Attorney General to maintain a national database at the FBI for each sex offender and other person required to register in a jurisdiction's sex offender registry, referred to as the National Sex Offender Registry.
- Directs the Attorney General to maintain a public website providing information where information on each sex offender may be obtained "by a single query."
- Requires officials within the local jurisdiction in which a sex offender has registered to provide the latest registry information to various local, state, and federal agencies and entities within 5 days after their registration.
- Directs the Attorney General, when a local jurisdiction "does not have a minimally sufficient sex offender registration program," to carry out the duties imposed on that jurisdiction.

- Requires that the provisions of this title be implemented within two years of enactment, but allows the Attorney General to grant a one-year extension.
- Stipulates that jurisdictions that fail to implement the provision in this title will not receive 10 percent of the funds that would normally be allocated for that fiscal year to the jurisdiction under the Byrne Program and the Local Government Law Enforcement Block Grants (LLEBG) program. Allows for funds that were not allocated due to not compliance of this title be redirected to jurisdictions that are in compliance.
- Allows the Attorney General to award a “bonus payment” to jurisdictions that have implemented the provisions in this title within two years of enactment, and specifies the amount of the bonus;
- *Authorization of Appropriations:* Authorizes such sums as necessary for FY06-FY10 for the Sex Offender Management Assistance (SOMA) program.
- Directs the Attorney General to carry out a new demonstration project to make grants to jurisdictions to test electronic monitoring devices in the SOMA program, and stipulates that no more than 10 jurisdictions may participate;
- *Authorization of Appropriations:* Authorizes such sums as necessary to carry out this provision.
- Requires that laws and policies be implemented to electronically monitor a person convicted of a state sex offense in which the victim was under 18 years old;
- Requires electronic monitoring for the life of the person if the victim was under the age of 12, or the sex offender has a prior sex conviction; in other cases, requires electronic monitoring for the period of probation or parole;
- Allows the Attorney General to make a bonus payment within three years after enactment to a state that has enacted the specified electronic monitoring laws, and specifies the amount of the bonus.
- Requires that the National Center for Missing and Exploited Children (Center) has access to the Interstate Identification Index, stipulates under what conditions the Index is to be used and by whom, and stipulates that personnel of the Center will not be liable for any misuse of information within the Index if used in good faith;
- Provides that personnel of Center are not liable for any civil or criminal action for damages directly related to the performance of its CyberTipline responsibilities, with specified exceptions.
- Provides that a sex offender who has been duly notified of their requirement to register and who knowingly fails to register under the Sex Offender Registration and Notification Act will be fined and imprisoned not less than 5 years nor more than 20 years.
- Directs the Attorney General to assist states and other jurisdictions in locating and apprehending sex offenders who violate sex offender registration requirements;
- *Authorization of Appropriations:* Authorizes such sums as necessary for FY06-FY08 to implement this section.
- Allows the Attorney General to make grants to states, local governments, Indian tribal governments, and other public and private entities to assist in enforcing sex offender registration requirements;

- *Authorization of Appropriations:* Authorizes such sums as necessary for FY06-FY08 to implement this section.
- Allows for an additional prison sentence of 10 years or more for anyone that “knowingly uses a controlled substance to substantially impair the ability of a person to appraise or control conduct, in order to commit a sex offense.”
- Repeals the Predecessor Sex Offender Program (42 U.S.C. 14071 and 14072).
- Establishes a new Office on Sexual Violence and Crimes against Children within the Department of Justice.

Title II: DNA Fingerprinting.

- Permits the Attorney General to collect DNA samples “from individuals who are arrested, detained, or convicted under the authority of the United States.”
- Directs the Attorney General to publish within 60 days of enactment a “model code setting forth procedures to be followed by law enforcement officers when investigating a missing person or a death. The procedures shall include the use of DNA analysis to help locate missing persons and to help identify human remains.”

Title III: Prevention and Deterrence of Crimes Against Children.

- Stipulates mandatory minimum prison sentences for persons convicted of a felony crime of violence against a person under the age of 18 as follows:
 - a sentence of death or life imprisonment if the crime of violence results in the death of a person under 18 years old,
 - a sentence of at least 30 years or life imprisonment if the crime of violence is kidnapping, aggravated sexual abuse, sexual abuse, or maiming, or results in serious bodily injury,
 - a sentence of at least 20 years or life imprisonment if the crime of violence results in bodily injury or is an abusive sexual contact offense (both defined in statute),
 - a sentence of at least 15 years or life imprisonment if a dangerous weapon was used during and in relation to the crime of violence, and
 - a sentence of at least 10 years or life imprisonment for any other case.
- Imposes time limits and other specific limits on federal courts’ review of habeas corpus petitions that challenge a state-court conviction for killing a child. In the district court, parties will be required to move for an evidentiary hearing within 90 days of the completion of briefing, the court must act on the motion within 30 days, and the hearing must begin 60 days later and last no longer than 3 months. All district-court review must be completed within 15 months of the completion of briefing. In the court of appeals, the court must complete review within 120 days of the completion of briefing.

Title IV: Protection Against Sexual Exploitation of Children.

- Increases the mandatory minimum sentence for a conviction of aggravated sexual abuse of a child by requiring imprisonment for at least 30 years or for life, instead of “any term of years or life, or both” as current law stipulates.

- Expands the minimum term of imprisonment to at least 10 years and not more than 25 years if the sexual contact was a sexual act (as defined in statute).
- Expands the minimum term of imprisonment and penalty, for a person who engages in a sexual offense that results in the death of a person under the age of 12, to be imprisoned for at least 30 years or for life or punished by death.
- Expands the “aggravating factors for homicide” that may warrant the death penalty to include “sexual abuse resulting in death.”
- Expands the terms of imprisonment for sexual exploitation of children to “25 years or for life” instead of “15 years nor more than 30 years.”
- For one or two prior convictions, expands the terms of imprisonment from 25-50 years to life imprisonment.
- Expands the punishable offenses relating to the exploitation of children by replacing the term “sexual exploitation of children” with “aggravated sexual abuse, sexual abuse, abusive sexual contact involving a minor or ward, or sex trafficking of children, or the production, possession, receipt, mailing, sale distribution, shipment, or transportation of child pornography.”
- Expands the punishable offenses relating to material involving the sexual exploitation of children, and lengthens the minimum terms of imprisonment for various offenses related to child pornography and sex trafficking of children.
- Expands the minimum term of imprisonment for using misleading domain names to direct children to harmful material on the internet from four years to at least 10 and not more than 30 years.
- Expands the list of offenses which are punishable by mandatory life imprisonment to include travel with intent to engage in illicit sexual conduct, illicit sexual conduct in foreign places, and the use of interstate facilities to transmit information about a minor.”

Title V: Foster Child Protection and Child Sexual Predator Deterrence.

- Requires that background checks be performed on any prospective foster or adoptive parent and on any other adult living in the home of the prospective parent before approval of any foster or adoptive placement. Also requires that the National Crime Information Database and state child abuse registries are checked prior to approval;
- Repeals the “opt-out” provision that allowed the governor of a state to opt out of the required criminal record check of prospective foster and adoptive parents.
- Allows the Attorney General, upon the request of the governor of a state, to allow access to the federal crime information database to child welfare agencies to carry out criminal history record checks. Stipulates certain conditions and safeguards for access and imposes penalties for improper use or dissemination of the information.
- Increases the mandatory minimum prison sentence to at least 10 years and not more than 30 years for sex offenders who induces or coerces any individual to travel in interstate or foreign commerce to engage in prostitution or other criminal sexual activity.
- Increases mandatory minimum prison sentences for conduct relating to child prostitution.

- Increases mandatory minimum prison sentences for conduct relating to aggravated sexual abuse.
- Allows a court to order, as a condition of supervised release for a convicted sex offender who is required to register as such, that the person submit to a full bodily and property search at any time without a warrant by any law enforcement or probation officer with reasonable suspicion of a violation of probation;
- Deems the confidential marital communication privilege and the adverse spousal privilege inapplicable in any federal proceeding in which a spouse is charged with a crime against a child of either spouse or a child in the custody of either spouse.

Title VI: Child Pornography Protection.

- Requires producers of pornography and sexually explicit photography to keep records of the names, ages, and proof of identification of the individuals depicted in their materials (Rep. Pence amendment to H.R. 3132, similar to H.R. 3726); this provision is aimed at frustrating pornographers that use children in soft-core pornography and nude pictures from claiming that they believed the children were over age eighteen.
- Subjects producers of obscenity to the same forfeiture provisions as are in place for other crimes and allows the equipment used by pornographers to be forfeited. Makes the production, transportation, distribution and sale of obscenity a crime when the producer has the intent to do so across state lines.

Title VII: Court Security.

- Adds “federally financed public safety officer” as one of the positions covered under 18 U.S.C 1111, thus affording them the same protections against violent crimes under the law as federal law enforcement officers.
- Provides for increased criminal penalties for assault, kidnapping, murder, threats, or conspiracy to commit such crimes against an immediate family member of a United States judge, a federal law enforcement officer or a federally funded public safety officer; for assaults, the penalty would increase depending on the severity of the assault and the injuries incurred by the victim.
- Provides for increased penalties where the victim is a U.S. judge, federal law enforcement officer, or federally funded public safety officer (as noted above, this position is being added to those already protected), including various minimum and maximum prison sentences based on the severity of the crime; if a dangerous weapon was used in relation to the offense, it also requires an additional five-year prison term beyond what is otherwise imposed.
- Provides for a prison term of at least 30 years for a person who kills, or attempts or conspires to kill, a current or former federally funded public safety officer while he is on duty or performing official duties; allows for a life sentence and, if the victim dies, provides for a death sentence.
- Increases the mandatory minimum prison sentence for involuntary manslaughter from 6 to 10 years, and increases the maximum prison sentence from 10 to 20 years.
- Increases the mandatory minimum prison sentence for second-degree murder to 30 years.

- Expands and clarifies the definition of offenses relating to influencing or injuring a juror or officer of the court. Increases the maximum allowable prison sentence from 20 to 30 years.
- Increases the maximum prison sentences for tampering with a witness or obstructing an official proceeding as follows:
 - increases the maximum sentence from 20 to 30 years for attempted murder;
 - increases the maximum sentence from 10 to 20 years for a threat or the use of physical force;
 - increases the maximum sentence from 10 to 30 years for intentionally hindering or preventing communication to a judge regarding the commission or possible commission of a federal offense; and
 - increases the maximum sentence from one to 20 years for harassing and thereby preventing a person from testifying in an official proceeding or reporting the commission or possible commission of a crime.
- Increases the maximum prison sentences to 30 years (from 10 and 20 in various circumstances) for killing or attempting to kill a witness, victim, or an informant in retaliation for their testifying or providing information to law enforcement.
- Expands the definition of “unlawful activity” to include “intimidation of, or retaliation against, a witness, victim, juror, or informant” relating to interstate or foreign travel in aid to racketeering.
- Allows a prosecution case brought under Section 1513 of title 18 (retaliating against a witness) to be brought in the district in which the official proceeding or conduct occurred; in current law, the location of venue for this crime is not addressed.
- Creates a new grant program administered by the Attorney General to states, units of local government, and Indian tribes to create and expand witness protection programs “to prevent threats, intimidation, and retaliation against victims” of crimes.
- Appropriates \$20 million for each of fiscal years FY06 through FY10, for a total of \$100 million.
- Amends the Violent Crime Control Act to authorize grants to states to “create and expand witness protection programs to prevent threats and retaliation” against victims of crime;
- Appropriates \$20 million for each of fiscal years FY06 through FY10, for a total of \$100 million.
- Directs the U.S. Marshals Service to consult and coordinate with the Administrative Office of the U.S. Courts “on a continuing basis” regarding security requirements for the judicial branch; according to the committee report, this provision is aimed at implementing security measures to protect judges and other employees and members of the public at federal courthouses.
- Creates a new federal crime for filing a false lien against real or personal property owned by a federal judge, federal attorney, or federal employee (as defined by section 1114 in the U.S. Code).
- Provides for a fine or prison sentence of up to 10 years, or both.
- Expands items that are prohibited in federal court facilities to include “other dangerous weapons” (in addition to firearms currently prohibited); the term

“dangerous weapon” is currently defined in law (18 U.S.C. 930) as “a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length.”

- Modifies the Ethics in Government Act of 1978 by repealing the sunset provision regarding the filing of disclosure statements by federal judges; according to the committee report, this will “allow federal judges to continue to redact identifying information about them and their families while ensuring that sufficient information is publicly available to ensure that no conflicts or other potential conflicts may arise while conducting their official duties.”
- Creates a new federal crime for publishing restricted personal information on the Internet, (with the intent to harm, intimidate, or retaliate against an official or court) concerning judges, law enforcement, public safety officers, jurors, witness, or other U.S. court officers.
- Modifies the eligibility requirements for discretionary Byrne grants so courts may apply directly; directs states and local governments to consider courts in the application process when applying for funds under the Byrne grant process.
- Directs the Attorney General to submit a report to Congress on “the security of assistant U.S. attorneys and other federal attorneys arising from the prosecution of terrorists, violent criminal gangs, drug traffickers, gun traffickers, white supremacists, and those who commit fraud and other white-collar offenses.” The report is required to include such information as the number and nature of threats and assaults against attorneys handling such prosecutions;
- Creates a new federal crime for flight to avoid prosecution for killing an individual involved in crime and juvenile delinquency control and reduction (peace officer); provides for a mandatory minimum prison sentence of 10 years. This provision is identical to H.R. 3900, the Justice for Peace Officers Act, sponsored by Rep. Dreier (R-CA).
- Expands the penalties for offenses against judges and law enforcement officers, including murder, kidnapping, and related federal crimes. Provides for a mandatory minimum prison sentence of 30 years for murder or kidnapping of a federal judge or law enforcement officer and provides for the death penalty in both cases.
- Authorizes the presiding judge of each court to permit media coverage (including photography, electronic recording, broadcasting or televising, etc.) of judicial proceedings based on his own discretion and provides specific procedures to be used to protect the security of witnesses.
- Directs the Attorney General to make new grants to the highest state courts in states participating in this program to “conduct assessments focused on the essential elements for effective courtroom safety and security planning” and implement changes as necessary;
- Appropriates \$20 million for each of fiscal years FY06 through FY10, for a total of \$100 million.
- Appropriates an additional \$20 million to the U.S. Marshals Service for each fiscal year FY06 through FY10 (totaling \$100 million) to protect the federal

- judiciary, to include hiring additional entry-level and senior-level deputy marshals.
- Directs the Attorney General to carry out a new program for states to establish and maintain a threat assessment database; defines the purpose and components of such a database.
 - Appropriates such sums as may be necessary for FY06 through FY09.
 - Allows the Bureau of Justice Assistance to make grants to state and local prosecutors and law enforcement agencies to provide witness assistance programs for juvenile and young adults.
 - Appropriates \$3 million for each of fiscal years FY06 through FY09, for a total of \$9 million.

Title VIII: Reduction and Prevention of Gang Violence.

- The bill redefines criminal street gang as a group consisting of three members committing two or more gang crimes, which is a lower threshold than current law. Gang crime, as defined in the bill, includes the following criminal activities: A crime of violence.
- A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or burglary; and a crime involving the manufacturing, importing, distributing, possessing with intent to distribute, or otherwise dealing in a controlled substance or listed chemicals.
- Authorizes \$50 million each year, for five years, for the purpose of establishing High Intensity Interstate Gang Activity Areas. The bill also authorizes \$7.5 million each year, for five years, to the U.S. Attorney General to hire 94 additional Assistant U.S. attorneys, each to be assigned to a high intensity interstate gang activity area. High Intensity Interstate Gang Activity Areas is defined as, an area within a State that is designated as a high intensity interstate gang activity area by the U.S. Attorney General after consultation with the Governors of appropriate States. According to the text, the Attorney General is to consider the following when designating a high intensity interstate gang activity area: the current and predicted levels of gang crime activity in the area; the extent to which violent crime in the area appears to be related to criminal street gang activity, such as drug trafficking, murder, robbery, assaults, carjacking, arson, kidnapping, extortion, and other criminal activity; the extent to which State and local law enforcement agencies have committed resources to:
 - respond to the gang crime problem and participate in a gang enforcement team; the extent to which a significant increase in the allocation of federal resources would enhance local response to the gang crime activities in the area; and any other criteria that the Attorney General considers to be appropriate.
- Reauthorizes at \$20 million each year, for five years, the Community-Based Justice Grants for Prosecutors, a program last authorized from FY96 to FY00, with the FY00 authorization set at \$12 million. The funds are to be used to carry out the following directives, which have been added to the Community-Based Justice Grants for Prosecutors program: hire additional prosecutors; fund technology, equipment, and training for prosecutors and law enforcement to identify gang members and maintain informational databases; and fund

technology, equipment, and training for prosecutors to prosecute young violent offenders.

- According the bill, In order to provide Federal assistance to high intensity interstate gang activity areas, the Attorney General shall establish criminal street gang enforcement teams, consisting of Federal, State, and local law enforcement authorities, for the coordinated investigation, disruption, apprehension, and prosecution of criminal street gangs and offenders in each high intensity interstate gang activity area.
- Directs the reassignment or detailing from any federal department or agency (subject to the approval of the head of that department or agency, in the case of a department or agency other than the Department of Justice) of personnel to each criminal street gang enforcement team; provide all necessary funding for the operation of the criminal street gang enforcement team in each high intensity interstate gang activity area; and provide all necessary funding for national and regional meetings of criminal street gang enforcement teams, and all other related organizations, as needed, to ensure effective operation of such teams through the sharing of intelligence, best practices and for any other related purpose (emphasis added).
- The text stipulates that the criminal street gang enforcement teams are to consist of agents and officers from the following entities: Federal Bureau of Investigation; Drug Enforcement Administration; Bureau of Alcohol, Tobacco, Firearms, and Explosives; United States Marshals Service; Directorate of Border and Transportation Security of the Department of Homeland Security; Department of Housing and Urban Development; State and local law enforcement; and Federal, State, and local prosecutors.
- Mandatory sentencing changes:

Criminal Offense	Current mandatory sentence	Proposed mandatory sentence
Criminal street gang activity resulting in death	N/A	Death or life in prison
Criminal street gang activity resulting in kidnapping, aggravated sexual abuse, or maiming	N/A	Life or not less than 30 yrs
Criminal street gang activity resulting assault causing bodily injury	N/A	Life or not less than 20 yrs
Carjacking	Not more than 25 yrs	Not less than 10 or more than 30 yrs
Use of interstate commerce facilities resulting in kidnapping, aggravated sexual abuse, maiming, or conspiracy to commit such an act	Not more than 20 yrs	Life or not less than 30 yrs
Use of interstate commerce facilities in crime of violent assault, conspiracy of assault, resulting in serious bodily injury	Not more than 20 yrs	Life or not less than 20 yrs
Violent crimes in aid of racketeering resulting in kidnapping, aggravated sexual abuse, or maiming.	Kidnapping-any term of yrs or life Maiming- not more than 30 yrs	Life or not less than 30 yrs
Violent crimes in aid of racketeering including assault resulting in serious	Not more than 20 yrs	Life or not less than 20 yrs

bodily injury		
Violent crimes during and related to drug trafficking resulting in death	N/A	Death or life in prison
Use or possession of firearms in crimes of violence and drug trafficking resulting	Not less than 5 yrs	Not less than 7 yrs
If firearm is discharged during crimes of violence and drug trafficking resulting	Not less than 10 yrs	Not less than 15 yrs
If firearm is used to wound, injure, or maim during crimes of violence and drug trafficking resulting	Differs depending on weapon type	Not less than 20 yrs

- Requires the court to order that the convicted individual forfeit to the United States:
 - any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation;
 - and any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation;
- Cross references the definitions in the Controlled Substances Act (21 U.S.C 853), to define property, both tangible and intangible, to outline appropriate procedures for governmental seizure and maintenance of forfeited property, and defines the Attorney General's authority to restore seized property to the individual under certain circumstances.
- Deletes the attorney exception from current law, which allows a judge to order an individual convicted of a felony (including street gang crime, racketeering or racketeer influenced and corrupt organizations), to cease communication with a specific person, **other than an attorney**, if there is a probable cause to believe that association or communication with such person is for the purpose of enabling the defendant to control, manage, direct, finance, or otherwise participate in an illegal enterprise (emphasis added).
- Provides that cases involving violent crimes in aid of racketeering activity and violent crimes during and related to drug trafficking resulting in death may be brought in: the judicial district in which the crime of violence occurred; or any judicial district in which racketeering activity of the enterprise occurred.
- Provides that in capital cases, the trial is to be held in the district where the offense was committed or in any district in which the offense began, continued, or was completed. Also, if the offense for which the individual is on trial involves activities which affect interstate or foreign commerce, or the importation of an object or person into the United States, such offense may be prosecuted in any district in which those activities occurred.
- Establishes a statute of limitations stating, no person shall be prosecuted, tried, or punished for any noncapital felony, crime of violence, including any racketeering activity or gang crime which involves any crime of violence, unless the indictment is found or the information is instituted not later than 15 years after the date on which the alleged violation occurred or the continuing offense was completed.

- Allows the U.S Attorney General, in certain circumstances, to prosecute a juvenile as an adult who is alleged to have committed an act of violence after his 16th birthday.

Committee Action: H.R. 4472 was introduced on December 8, 2005, and referred to the Judiciary and Ways and Means Committee, which took no official action. To view the committee action for the bills contained in this legislation, please see previous Legislative Bulletins from 2005 for H.R. 3132, H.R. 1751, and H.R. 1279 on the RSC website.

Cost to Taxpayers: A CBO score of H.R. 4472 is unavailable. However, CBO provided cost estimates for all three of the underlying bills. For Titles I-VI, CBO estimated that implementing the provisions “would cost about \$500 million over the FY06-FY10 period.” For Title VII, CBO estimated that the provisions “would authorize \$108 million in FY2006 and a total of \$509 million over the FY2006-FY2010 period.” For Title VIII, CBO estimated the provisions “would cost approximately \$370 million from 2006-2010, subject to appropriation.” The CBO estimate includes roughly \$60 million to incarcerate individuals in the federal prison system for longer periods of time than they would serve under current law. All together, it is estimated that the bill will cost \$1.38 billion over the FY06-FY10 period.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill implements and expands various child safety programs and increases the federal role in law enforcement. The bill would create several new federal crimes, establish several new federal grant programs, and expand the duties of the U.S. Marshals Service, among other things. It would also create a new program for the Department of Justice to work with state and local authorities to investigate and prosecute criminal street gangs.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes. According to CBO, provisions within Titles I-VI “would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by eliminating the ability of states to opt out of federal requirements to conduct background checks and make alternative placements in the foster care program. CBO estimates that the cost of that mandate would not exceed the threshold established in UMRA (\$62 million in 2005, adjusted annually for inflation). The bill also would add additional requirements for state, local, and tribal governments for them to receive full funding from three existing grant programs. CBO estimates that \$120 million would be available over fiscal years 2006-2010 for those governments to meet the new requirements and establish new programs, assuming appropriation of the estimated amounts. Any additional costs to those governments would be incurred voluntarily as a condition of receiving federal aid. It would impose private-sector mandates, as defined in UMRA, on individuals who have been arrested or detained for federal offenses and on individuals who have been convicted of or adjudicated for certain sex offenses. CBO estimates that the aggregate direct costs of the mandates would be not be large and would fall well below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).” Also, under Title VIII, the bill would broaden and increase federal mandatory sentencing for gang-related crime

Constitutional Authority: A committee report citing constitutional authority is unavailable.

However, all three of the committee reports for the underlying bills cited constitutional authority in Article 1, Section 8 of the Constitution, but all three failed to cite a specific clause.

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

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