

104TH CONGRESS
1ST SESSION

H. R. 667

To control crime by incarcerating violent criminals.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1995

Mr. McCOLLUM introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To control crime by incarcerating violent criminals.

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

3 **SECTION 1. SHORT TITLE.**

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

6 **TITLE I—TRUTH IN SENTENCING**

7 **SEC. 101. TRUTH IN SENTENCING GRANT PROGRAM.**

8 Title V of the Violent Crime Control and Law En-
9 forcement Act of 1994 is amended to read as follows:

1 **“TITLE V—TRUTH IN**
2 **SENTENCING GRANTS**

3 **“SEC. 501. AUTHORIZATION OF GRANTS.**

4 “(a) IN GENERAL.—The Attorney General is author-
5 ized to provide grants to eligible States and to eligible
6 States organized as a regional compact to build, expand,
7 and operate space in correctional facilities in order to in-
8 crease the prison bed capacity in such facilities for the
9 confinement of persons convicted of a serious violent fel-
10 ony and to build, expand, and operate temporary or per-
11 manent correctional facilities, including facilities on mili-
12 tary bases, for the confinement of convicted nonviolent of-
13 fenders and criminal aliens for the purpose of freeing suit-
14 able existing prison space for the confinement of persons
15 convicted of a serious violent felony.

16 “(b) LIMITATION.—An eligible State or eligible
17 States organized as a regional compact may receive either
18 a general grant under section 502 or a truth-in-sentencing
19 incentive grant under section 503.

20 **“SEC. 502. GENERAL GRANTS.**

21 “(a) DISTRIBUTION OF GENERAL GRANTS.—50 per-
22 cent of the total amount of funds made available under
23 this title for each of the fiscal years 1995 through 2000
24 shall be made available for general eligibility grants for

1 each State or States organized as a regional compact that
2 meets the requirements of subsection (b).

3 “(b) GENERAL GRANTS.—In order to be eligible to
4 receive funds under subsection (a), a State or States orga-
5 nized as a regional compact shall submit an application
6 to the Attorney General that provides assurances that
7 such State since 1993 has—

8 “(1) increased the percentage of convicted vio-
9 lent offenders sentenced to prison;

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

13 “(3) increased the percentage of sentence to be
14 actually served in prison by violent offenders sen-
15 tenced to prison.

16 **“SEC. 503. TRUTH-IN-SENTENCING GRANTS.**

17 “(a) TRUTH-IN-SENTENCING INCENTIVE GRANTS.—
18 50 percent of the total amount of funds made available
19 under this title for each of the fiscal years 1995 through
20 2000 shall be made available for truth-in-sentencing incen-
21 tive grants to each State or States organized as a regional
22 compact that meet the requirements of subsection (c).

23 “(b) ELIGIBILITY FOR TRUTH-IN-SENTENCING IN-
24 CENTIVE GRANTS.—In order to be eligible to receive funds
25 under subsection (a), a State or States organized as a re-

1 gional compact shall submit an application to the Attorney
2 General that provides assurances that each State applying
3 has enacted laws and regulations which include—

4 “(1)(A) truth-in-sentencing laws which require
5 persons convicted of a serious violent felony serve
6 not less than 85 percent of the sentence imposed or
7 85 percent of the court-ordered maximum sentence
8 for States that practice indeterminate sentencing; or

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

18 “(2) laws requiring that the sentencing or re-
19 leasing authorities notify and allow the victims of
20 the defendant or the family of such victims the op-
21 portunity to be heard regarding the issue of sentenc-
22 ing and any postconviction release.

23 **“SEC. 504. SPECIAL RULES.**

24 “(a) INDETERMINANT SENTENCING EXCEPTION.—
25 Notwithstanding the provisions of paragraphs (1) through

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

4 “(1) practices indeterminant sentencing; and

5 “(2) the average times served in such State for
6 the offenses of murder, rape, robbery, and assault
7 exceed, by 10 percent or greater, the national aver-
8 age of times served for such offenses.

9 “(b) EXCEPTION.—The requirements under section
10 502(b) shall apply, except that a State may provide that
11 the Governor of the State may allow for the release of
12 a prisoner over the age of 70 after a public hearing in
13 which representatives of the public and the prisoner’s vic-
14 tims have an opportunity to be heard regarding a proposed
15 release.

16 **“SEC. 505. FORMULA FOR GRANTS.**

17 “To determine the amount of funds that each eligible
18 State or eligible States organized as a regional compact
19 may receive to carry out programs under section 502 or
20 503, the Attorney General shall apply the following
21 formula:

22 “(1) \$500,000 or 0.40 percent, whichever is
23 greater shall be allocated to each participating State
24 or compact, as the case may be; and

1 “(2) of the total amount of funds remaining
2 after the allocation under paragraph (1), there shall
3 be allocated to each State or compact, as the case
4 may be, an amount which bears the same ratio to
5 the amount of remaining funds described in this
6 paragraph as the population of such State or com-
7 pact, as the case may be, bears to the population of
8 all the States.

9 **“SEC. 506. ACCOUNTABILITY.**

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

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

20 “(c) ADMINISTRATIVE PROVISIONS.—The adminis-
21 trative provisions of sections 801 and 802 of the Omnibus
22 Crime Control and Safe Streets Act of 1968 shall apply
23 to the Attorney General in the same manner as such provi-
24 sions apply to the officials listed in such sections.

1 **“SEC. 507. AUTHORIZATION OF APPROPRIATIONS.**

2 “(a) IN GENERAL.—There are authorized to be ap-
3 propriated to carry out this title—

4 “(1) \$232,000,000 for fiscal year 1995;

5 “(2) \$997,500,000 for fiscal year 1996;

6 “(3) \$1,330,000,000 for fiscal year 1997;

7 “(4) \$2,527,000,000 for fiscal year 1998;

8 “(5) \$2,660,000,000 for fiscal year 1999; and

9 “(6) \$2,753,100,000 for fiscal year 2000.

10 “(b) LIMITATIONS ON FUNDS.—

11 “(1) USES OF FUNDS.—Funds made available
12 under this title may be used to carry out the pur-
13 poses described in section 501(a).

14 “(2) NONSUPPLANTING REQUIREMENT.—Funds
15 made available under this section shall not be used
16 to supplant State funds, but shall be used to in-
17 crease the amount of funds that would, in the ab-
18 sence of Federal funds, be made available from
19 State sources.

20 “(3) ADMINISTRATIVE COSTS.—Not more than
21 three percent of the funds available under this sec-
22 tion may be used for administrative costs.

23 “(4) MATCHING FUNDS.—The Federal share of
24 a grant received under this title may not exceed 75
25 percent of the costs of a proposal as described in an
26 application approved under this title.

1 “(5) CARRY OVER OF APPROPRIATIONS.—Any
2 funds appropriated but not expended as provided by
3 this section during any fiscal year shall remain avail-
4 able until expended.

5 **“SEC. 508. DEFINITIONS.**

6 “As used in this title—

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

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

12 “(B) an administrative agency, generally
13 the parole board, controls release between
14 court-ordered minimum and maximum sen-
15 tence;

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

17 “(A) an offense that is a felony and has as
18 an element the use, attempted use, or threat-
19 ened use of physical force against the person or
20 property of another and has a maximum term
21 of imprisonment of 10 years or more,

22 “(B) any other offense that is a felony and
23 that, by its nature, involves a substantial risk
24 that physical force against the person or prop-
25 erty of another may be used in the course of

1 committing the offense and has a maximum
2 term of imprisonment of 10 years or more, or

3 “(C) such crimes include murder, assault
4 with intent to commit murder, arson, armed
5 burglary, rape, assault with intent to commit
6 rape, kidnapping, and armed robbery; and

7 “(3) the term ‘State’ means a State of the
8 United States, the District of Columbia, or any com-
9 monwealth, territory, or possession of the United
10 States.”.

11 **TITLE II—STOPPING ABUSIVE** 12 **PRISONER LAWSUITS**

13 **SEC. 201. EXHAUSTION REQUIREMENT.**

14 Section 7(a)(1) of the Civil Rights of Institutionalized
15 Persons Act (42 U.S.C. 1997d) is amended—

16 (1) by striking “in any action brought” and in-
17 serting “no action shall be brought”;

18 (2) by striking “the court shall” and all that
19 follows through “require exhaustion of” and insert
20 “until”; and

21 (3) by inserting “are exhausted” after “avail-
22 able”.

1 **SEC. 202. FRIVOLOUS ACTIONS.**

2 Section 7(a) of the Civil Rights of Institutionalized
3 Persons Act (42 U.S.C. 1997d(a)) is amended by adding
4 at the end the following:

5 “(3) The court shall on its own motion or on motion
6 of a party dismiss any action brought pursuant to section
7 1979 of the Revised Statutes of the United States by an
8 adult convicted of a crime and confined in any jail, prison,
9 or other correctional facility if the court is satisfied that
10 the action fails to state a claim upon which relief can be
11 granted or is frivolous or malicious.”.

12 **SEC. 203. MODIFICATION OF REQUIRED MINIMUM STAND-**
13 **ARDS.**

14 Section 7(b)(2) of the Civil Rights of Institutionalized
15 Persons Act (42 U.S.C. 1997d(b)(2)) is amended by strik-
16 ing subparagraph (A) and redesignating subparagraphs
17 (B) through (E) as subparagraphs (A) through (D), re-
18 spectively.

19 **SEC. 204. PROCEEDINGS IN FORMA PAUPERIS.**

20 (a) DISMISSAL.—Section 1915(d) of title 28, United
21 States Code, is amended—

22 (1) by inserting “at any time” after “counsel
23 and may”; and

24 (2) by striking “and may” and inserting “and
25 shall”;

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

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

6 (b) PRISONER’S STATEMENT OF ASSETS.—Section
7 1915 of title 28, United States Code, is amended by add-
8 ing at the end the following:

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

18 **TITLE III—STOP TURNING OUT**
19 **PRISONERS**

20 **SEC. 301. APPROPRIATE REMEDIES FOR PRISON CONDI-**
21 **TIONS.**

22 (a) IN GENERAL.—Section 3626 of title 18, United
23 States Code, is amended to read as follows:

1 **“§ 3626. Appropriate remedies with respect to prison**
2 **conditions**

3 “(a) REQUIREMENTS FOR RELIEF.—

4 “(1) LIMITATIONS ON PROSPECTIVE RELIEF.—

5 Prospective relief in a civil action with respect to
6 prison conditions shall extend no further than nec-
7 essary to remove the conditions that are causing the
8 deprivation of the Federal rights of individual plain-
9 tiffs in that civil action. The court shall not grant
10 or approve any prospective relief unless the court
11 finds that such relief is narrowly drawn and the
12 least intrusive means to remedy the violation of the
13 Federal right. In determining the intrusiveness of
14 the relief, the court shall give substantial weight to
15 any adverse impact on public safety or the operation
16 of a criminal justice system caused by the relief.

17 “(2) PRISON POPULATION REDUCTION RE-
18 LIEF.—In any civil action with respect to prison con-
19 ditions, the court shall not grant or approve any re-
20 lief whose purpose or effect is to reduce or limit the
21 prison population, unless the plaintiff proves that
22 crowding is the primary cause of the deprivation of
23 the Federal right and no other relief will remedy
24 that deprivation.

25 “(b) TERMINATION OF RELIEF.—

1 “(1) AUTOMATIC TERMINATION OF PROSPEC-
2 TIVE RELIEF AFTER 2-YEAR PERIOD.—In any civil
3 action with respect to prison conditions, any pro-
4 spective relief shall automatically terminate 2 years
5 after the later of—

6 “(A) the date the court found the violation
7 of a Federal right that was the basis for the re-
8 lief; or

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

11 “(2) IMMEDIATE TERMINATION OF PROSPEC-
12 TIVE RELIEF.—In any civil action with respect to
13 prison conditions, a defendant or intervenor shall be
14 entitled to the immediate termination of any pro-
15 spective relief, if that relief was approved or granted
16 in the absence of a finding by the court that prison
17 conditions violated a Federal right.

18 “(c) PROCEDURE FOR MOTIONS AFFECTING PRO-
19 SPECTIVE RELIEF.—

20 “(1) GENERALLY.—The court shall promptly
21 rule on any motion to modify or terminate prospec-
22 tive relief in a civil action with respect to prison con-
23 ditions.

1 “(2) AUTOMATIC STAY.—Any prospective relief
2 subject to a pending motion shall be automatically
3 stayed during the period—

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

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

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

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

14 “(1) whose jurisdiction or function includes the
15 prosecution or custody of persons in a prison subject
16 to; or

17 “(2) who otherwise is or may be affected by;
18 any relief whose purpose or effect is to reduce or limit
19 the prison population shall have standing to oppose the
20 imposition or continuation in effect of that relief and may
21 intervene in any proceeding relating to that relief. Stand-
22 ing shall be liberally conferred under this subsection so
23 as to effectuate the remedial purposes of this section.

24 “(e) SPECIAL MASTERS.—In any civil action in a
25 Federal court with respect to prison conditions, any spe-

1 cial master or monitor shall be a United States magistrate
2 and shall make proposed findings on the record on com-
3 plicated factual issues submitted to that special master or
4 monitor by the court, but shall have no other function.
5 The parties may not by consent extend the function of
6 a special master beyond that permitted under this sub-
7 section.

8 “(f) ATTORNEY’S FEES.—No attorney’s fee under
9 section 722 of the Revised Statutes of the United States
10 (42 U.S.C. 1988) may be granted to a plaintiff in a civil
11 action with respect to prison conditions except to the ex-
12 tent such fee is—

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

16 “(2) proportionally related to the extent the
17 plaintiff obtains court ordered relief for that viola-
18 tion.”.

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

20 “(1) the term ‘prison’ means any Federal,
21 State, or local facility that incarcerates or detains
22 juveniles or adults accused of, convicted of, sen-
23 tenced for, or adjudicated delinquent for, violations
24 of criminal law;

1 “(2) the term ‘relief’ means all relief in any
2 form which may be granted or approved by the
3 court, and includes consent decrees and settlement
4 agreements; and

5 “(3) the term ‘prospective relief’ means all re-
6 lief other than compensatory monetary damages.”

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

13 (c) CLERICAL AMENDMENT.—The table of sections
14 at the beginning of subchapter C of chapter 229 of title
15 18, United States Code, is amended by striking “crowd-
16 ing” and inserting “conditions”.

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