

1 **TITLE III—SEXUAL ASSAULT**
2 **PREVENTION**
3 **Subtitle A—Rape Prevention**
4 **Education**

5 **SEC. 301. TRANSFER OF RAPE PREVENTION AND EDU-**
6 **CATION PROGRAM.**

7 Part J of title III of the Public Health Service Act
8 is amended by inserting after section 393A the following
9 new section:

10 **“SEC. 393B. USE OF ALLOTMENTS FOR RAPE PREVENTION**
11 **EDUCATION.**

12 “(a) PERMITTED USE.—Notwithstanding section
13 1904(a)(1), amounts transferred by the State for use
14 under this part shall be used for rape prevention and edu-
15 cation programs conducted by rape crisis centers and non-
16 profit State sexual assault coalitions for—

17 “(1) educational seminars;

18 “(2) the operation of hotlines;

19 “(3) training programs for professionals;

20 “(4) the preparation of informational material;

21 and

22 “(5) other efforts to increase awareness of the
23 facts about, or to help prevent, sexual assault, in-
24 cluding efforts to increase awareness in underserved

1 communities as defined in 42 U.S.C. 3796gg-2(7)
2 as modified by title VI of this Act.

3 “(b) NATIONAL RESOURCE CENTER.—The Secretary
4 of the Department of Health and Human Services shall,
5 through the National Center for Injury Prevention and
6 Control at the Centers for Disease Control and Preven-
7 tion, establish a National Resource Center on Sexual As-
8 sault to provide resource information, policy, training, and
9 technical assistance to Federal, State, and Indian tribal
10 agencies, as well as to State sexual assault coalitions and
11 local sexual assault programs and to other professionals
12 and interested parties on issues relating to sexual assault.
13 The Resource Center shall maintain a central resource li-
14 brary in order to collect, prepare, analyze, and disseminate
15 information and statistics and analyses thereof relating to
16 the incidence and prevention of sexual assault.

17 “(c) TARGETING OF EDUCATION PROGRAMS.—States
18 providing grant moneys must ensure that at least 25 per-
19 cent of the moneys are devoted to educational programs

1 “(1) IN GENERAL.—There are authorized to be
2 appropriated to carry out this section—

3 “(A) \$75,000,000 for fiscal year 1999;

4 “(B) \$75,000,000 for fiscal year 2000;

5 “(C) \$100,000,000 for fiscal year 2001;

6 “(D) \$100,000,000 for fiscal year 2002;

7 and

8 “(E) \$150,000,000 for fiscal year 2003.

9 Funds authorized to be appropriated under this sec-
10 tion are appropriated from the Violent Crime Reduc-
11 tion Fund pursuant to section 31001(c) and section
12 **[31004]**(d)(16), the third place it appears, of the
13 Violent Crime and Law Enforcement Act of 1994
14 (42 U.S.C. 14211 and 14214).

15 “(2) SEXUAL ASSAULT COALITIONS.—Of the
16 amount appropriated for any fiscal year under this
17 section, at least 15 percent of the total amount ap-
18 propriated shall be used for making grants to State
19 sexual assault coalitions to address public health is-
20 sues associated with sexual assault through training,
21 resource development, or similar research.

22 “(3) SUBSECTION (b) ALLOTMENT.—Of the
23 amount appropriated for any fiscal year under this
24 section, at least 1 percent shall be made available for
25 allotment under subsection (b).

1 “(e) LIMITATIONS.—

2 “(1) A State may use funds under this section
3 only so as to supplement and, to the extent prac-
4 ticable, increase the level of funds that would be
5 available from non-Federal sources for the activities
6 described in subsection (a), and in no case may such
7 funds be used to supplant funds from other sources.

8 “(2) A State may not use more than 2 percent
9 of the funds received in each fiscal year under this
10 section for surveillance studies or prevalence studies.

11 “(3) A State may not use more than 5 percent
12 of funds received in each fiscal year under this sec-
13 tion for administrative expenses.

14 “(f) ELIGIBLE ORGANIZATIONS.—The Secretary
15 shall award a grant under subsection (b) of this section
16 to a private nonprofit organization which can—

17 “(1) demonstrate that it has recognized exper-
18 tise in the area of sexual assault, a record of high-
19 quality services to victims of sexual assault, includ-
20 ing a demonstration of support from advocacy
21 groups, such as State sexual assault coalitions or
22 recognized national sexual assault groups; and

23 “(2) demonstrate a commitment to diversity
24 and to the provision of services to underserved popu-

1 lations as defined in 42 U.S.C. 3799gg-7 as modi-
2 fied by title VI of this Act.

3 “(g) DEFINITIONS.—

4 “(1) For purposes of this section, the term
5 ‘rape prevention and education’ includes education
6 and prevention efforts directed at sexual offenses
7 committed by offenders who are not known to the
8 victim as well as offenders who are known to the vic-
9 tim.

10 “(2) The term ‘sexual assault’ means any con-
11 duct proscribed by chapter 109A of title 18, United
12 States Code, whether or not the conduct occurs in
13 the special maritime and territorial jurisdiction of
14 the United States or in a Federal prison and in-
15 cludes both assaults committed by offenders who are
16 strangers to the victim and assaults committed by
17 offenders who are known to the victim or related by
18 blood or marriage to the victim.

19 “(3) The term ‘rape crisis center’ means a pri-
20 vate nonprofit organization that is organized, or has
21 as one of its primary purposes, to provide services
22 for victims of sexual assault and has a record of
23 commitment and demonstrated experience in provid-
24 ing services to victims of sexual assault.

25 “(h) TERMS.—

1 “(1) The Secretary shall make allotments to
2 each State on the basis of the population of the
3 State.

4 “(2) No State may use funds made available by
5 reason of subsection (a) in any fiscal year for admin-
6 istration of any prevention program other than the
7 rape prevention and education program for which al-
8 lotments are made under this section.

9 “(3) Any amount paid to a State for a fiscal
10 year and remaining unobligated at the end of such
11 year shall remain available for the next fiscal year
12 to such State for the purposes for which it was
13 made.”.

14 **SEC. 302. TECHNICAL AMENDMENT TO PUBLIC LAW 103-322.**

15 (a) REPEAL.—Section 1910A of the Public Health
16 and Human Services Act is repealed.

17 (b) EFFECTIVE DATE.—The repeal made by sub-
18 section (a) of this section shall take effect the day after
19 the date of enactment of this Act.

20 **Subtitle B—Standards, Practice,**
21 **and Training for Sexual Assault**
22 **Examinations**

23 **SEC. 311. SHORT TITLE.**

24 This subtitle may be cited as the “Standards, Prac-
25 tice, and Training for Sexual Assault Examinations Act”.

1 **SEC. 312. STANDARDS, PRACTICE, AND TRAINING FOR SEX-**
2 **UAL ASSAULT EXAMINATIONS.**

3 (a) IN GENERAL.—The Attorney General shall—

4 (1) evaluate existing standards of training and
5 practice for licensed health care professionals per-
6 forming sexual assault forensic examinations and de-
7 velop a national recommended standard for training;

8 (2) recommend sexual assault examination
9 training for all health care students to improve the
10 recognition of injuries suggestive of rape and sexual
11 assault and baseline knowledge of appropriate refer-
12 rals in victim treatment and evidence collection; and

13 (3) review existing national, State, and local
14 protocols on sexual assault for forensic examina-
15 tions, and based on this review, develop a rec-
16 ommended national protocol, and establish a mecha-
17 nism for its nationwide dissemination.

18 (b) CONSULTATION.—The Attorney General shall
19 consult with national, State, and local experts in the area
20 of rape and sexual assault, including but not limited to,
21 rape crisis centers, State sexual assault and domestic vio-
22 lence coalitions and programs, criminal justice, forensic
23 nursing, forensic science, emergency room medicine, law,
24 social services, sex crimes in underserved communities as
25 defined in 42 U.S.C. 3796gg-2(7) as modified by title VI
26 of this Act.

1 (c) REPORT.—The Attorney General shall ensure
2 that no later than 1 year after the date of enactment of
3 this Act, a report of the directives in subsection (a) is sub-
4 mitted to Congress.

5 (d) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to carry out this section
7 \$200,000 for fiscal year 1999.

8 **Subtitle C—Prevention of Custodial Sexual Assault by Correctional Staff**
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11 **SEC. 331. SHORT TITLE.**

12 This subtitle may be cited as the “Prevention of Custodial Sexual Assault by Correctional Staff Act”.

14 **SEC. 332. FINDINGS.**

15 Congress finds the following:

16 (1) According to an extensive 1996 report by
17 the Women’s Rights Project of Human Rights
18 Watch, sexual abuse of women prisoners by correc-
19 tional officers is a serious problem in our Nation’s
20 prisons, jails, and correctional facilities.

21 (2) Custodial sexual assault of women by cor-
22 rectional officers includes documented incidents of
23 vaginal, oral, and anal rape.

24 (3) Because correctional officers wield near ab-
25 solute power over female prisoners, officers may

1 abuse that power to sexually assault and abuse fe-
2 male prisoners, as well as engage in constant grop-
3 ing, harassment, and other abuse.

4 **SEC. 333. ESTABLISHMENT OF PREVENTION PROGRAM.**

5 (a) PROGRAM GUIDELINES.—

6 (1) IN GENERAL.—The Attorney General shall
7 establish guidelines for States and disseminate such
8 information to the States regarding the prevention
9 of custodial sexual misconduct by correctional staff.

10 (2) REQUIREMENTS.—Such guidelines shall in-
11 clude requirements that—

12 (A) prohibit a State department of correc-
13 tions from hiring correctional staff who have
14 been convicted on criminal charges, or found
15 liable in civil suits, for custodial sexual mis-
16 conduct; and

17 (B) each State department of corrections
18 maintain databases, including the names and
19 identifying information of individuals who have
20 been convicted on criminal charges or found lia-
21 ble in civil suits for custodial sexual misconduct
22 and to check these databases prior to hiring
23 any correctional staff.

24 (3) NATIONAL DATABASE.—This information
25 shall also be submitted to the Department of Justice

1 where it will be maintained and updated on a na-
2 tional database.

3 (b) RELEASE OF INFORMATION.—The information
4 collected under subsection (a)(2) shall be treated as pri-
5 vate data except that—

6 (1) such information may be disclosed to law
7 enforcement agencies for law enforcement purposes;

8 (2) such information may be disclosed to gov-
9 ernment agencies conducting confidential back-
10 ground checks; and

11 (3) the designated State law enforcement agen-
12 cy and any local law enforcement agency authorized
13 by the State agency may release relevant informa-
14 tion that is necessary to protect prisoners concerning
15 a specific person whose name is included in the
16 database, except that the identity of a victim of an
17 offense that requires information to be maintained
18 under this section shall not be released.

19 (c) IMMUNITY FOR GOOD FAITH CONDUCT.—Law
20 enforcement agencies, employees of law enforcement agen-
21 cies, and State officials shall be immune from criminal or
22 civil liability for good faith conduct in releasing informa-
23 tion under this section.

24 (d) INELIGIBILITY FOR FUNDS.—

1 (1) IN GENERAL.—A State that fails to imple-
2 ment the program as described under this section
3 shall not receive 10 percent of the funds that would
4 otherwise be allocated to the State under subtitle A
5 of title II of the Violent Crime Control and Law En-
6 forcement Act of 1994 (42 U.S.C. 13701).

7 (2) REALLOCATION.—Any funds that are not
8 allocated for failure to comply with this section shall
9 be reallocated to States that comply with this sec-
10 tion.

11 (3) COMPLIANCE DATE.—Each State shall have
12 not more than 3 years from the date of enactment
13 of this Act in which to implement this section, ex-
14 cept that the Attorney General may grant an addi-
15 tional 2 years to a State that is making good faith
16 efforts to implement this section.

17 **SEC. 334. PROHIBITED SEXUAL CONDUCT BY CORREC-**
18 **TIONAL STAFF.**

19 (a) REDUCTION OF FUNDS.—In addition to the re-
20 duction of funds under section 343(d), a State that does
21 not have criminal penalties or a State that fails to imple-
22 ment criminal penalties explicitly prohibiting custodial
23 sexual misconduct by correctional staff against prisoners
24 shall not receive 10 percent of the funds that would other-
25 wise be allocated to the State under part A of title II of

1 the Violent Crime Control and Law Enforcement Act of
2 1994 (42 U.S.C. 13701).

3 (b) REALLOCATION.—Any funds that are not allo-
4 cated for failure to comply with this section shall be reallo-
5 cated to States that comply with this section.

6 (c) COMPLIANCE DATE.—Each State shall have not
7 more than 3 years from the date of enactment of this Act
8 in which to implement this section, except that the Attor-
9 ney General may grant an additional 2 years to a State
10 that is making good faith efforts to implement this sec-
11 tion.

12 **SEC. 335. NATIONAL SEXUAL CONTACT HOTLINE FOR PRIS-**
13 **ONERS.**

14 (a) IN GENERAL.—Not later than 1 year after the
15 date of the enactment of this Act, the Attorney General
16 shall create a national, confidential, toll-free telephone
17 hotline to collect data and to provide information and as-
18 sistance to prisoners who have experienced custodial sex-
19 ual misconduct by corrections staff.

20 (b) ACTIVITIES.—Funds authorized under this sec-
21 tion shall be utilized to establish and operate a national,
22 confidential, toll-free sexual contact hotline. Such funds
23 shall be used for activities, including—

24 (1) contracting with a carrier for the use of a
25 toll-free telephone line;

1 (2) employing, training, and supervising person-
2 nel to answer incoming calls and provide counseling
3 and referral services to callers;

4 (3) assembling, maintaining, and continually
5 updating a database of information and resources to
6 which callers may be referred throughout the United
7 States;

8 (4) publicizing the hotline to prisoners through-
9 out the United States; and

10 (5) tracking of the number of reports, including
11 the name and location of the individual reporting the
12 offender, and the incident.

13 (c) REPORTING OF INFORMATION.—Information re-
14 garding the number of reports and the status of those re-
15 ports shall be included in the Attorney General's annual
16 report to Congress.

17 (d) PROCESSING REPORTS.—Reports may be re-
18 ferred to the criminal section of the Civil Rights Division
19 of the Department of Justice for investigation or for refer-
20 ral to the appropriate State agency for investigation.

21 (e) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to carry out this section
23 \$300,000 for fiscal year 1999 and \$100,000 for each of
24 the fiscal years 2000, 2001, 2002, and 2003.

1 **SEC. 336. DEFINITIONS.**

2 For purposes of this subtitle—

3 (1) the term “correctional staff” means any
4 employee, contractual employee, volunteer, or agent
5 of a correctional department who is working in any
6 contact position with any prisoners under the juris-
7 diction of that department; and

8 (2) the term “custodial sexual misconduct”
9 means any physical contact, directly or through the
10 clothing, with the sexual or intimate parts of a per-
11 son for the purpose of sexual gratification of either
12 party, when the—

13 (A) parties involved are a person in cus-
14 tody of a correctional department and a mem-
15 ber of the correctional staff; or

16 (B) contact occurs under circumstances of
17 coercion, duress, or threat of force by a member
18 of the correctional staff.

19 **Subtitle D—Hate Crimes**
20 **Prevention**

21 **SEC. 341. SHORT TITLE.**

22 This Act may be cited as the “Hate Crimes Preven-
23 tion Act of 1998”.

24 **SEC. 342. FINDINGS.**

25 Congress finds that—

1 (1) the incidence of violence motivated by the
2 actual or perceived race, color, national origin, reli-
3 gion, sexual orientation, gender, or disability of the
4 victim poses a serious national problem;

5 (2) such violence disrupts the tranquility and
6 safety of communities and is deeply divisive;

7 (3) existing Federal law is inadequate to ad-
8 dress this problem;

9 (4) such violence affects interstate commerce in
10 many ways, including—

11 (A) by impeding the movement of members
12 of targeted groups and forcing such members to
13 move across State lines to escape the incidence
14 or risk of such violence; and

15 (B) by preventing members of targeted
16 groups from purchasing goods and services, ob-
17 taining or sustaining employment or participat-
18 ing in other commercial activity;

19 (5) perpetrators cross State lines to commit
20 such violence;

21 (6) instrumentalities of interstate commerce are
22 used to facilitate the commission of such violence;

23 (7) such violence is committed using articles
24 that have traveled in interstate commerce;

1 (8) violence motivated by bias that is a relic of
2 slavery can constitute badges and incidents of slav-
3 ery;

4 (9) although many local jurisdictions have at-
5 tempted to respond to the challenges posed by such
6 violence, the problem is sufficiently serious, wide-
7 spread, and interstate in scope to warrant Federal
8 intervention to assist such jurisdictions; and

9 (10) many States have no laws addressing vio-
10 lence based on the actual or perceived race, color,
11 national origin, religion, sexual orientation, gender,
12 or disability, of the victim, while other States have
13 laws that provide only limited protection.

14 **SEC. 343. DEFINITION OF HATE CRIME.**

15 In this Act, the term “hate crime” has the same
16 meaning as in section 280003(a) of the Violent Crime
17 Control and Law Enforcement Act of 1994 (28 U.S.C.
18 994 note).

19 **SEC. 344. PROHIBITION OF CERTAIN ACTS OF VIOLENCE.**

20 Section 245 of title 18, United States Code, is
21 amended—

22 (1) by redesignating subsections (c) and (d) as
23 subsections (d) and (e), respectively; and

24 (2) by inserting after subsection (b) the follow-
25 ing:

1 “(c)(1) Whoever, whether or not acting under color
2 of law, willfully causes bodily injury to any person or,
3 through the use of fire, a firearm, or an explosive device,
4 attempts to cause bodily injury to any person, because of
5 the actual or perceived race, color, religion, or national
6 origin of any person—

7 “(A) shall be imprisoned not more than 10
8 years, or fined in accordance with this title, or both;
9 and

10 “(B) shall be imprisoned for any term of years
11 or for life, or fined in accordance with this title, or
12 both if—

13 “(i) death results from the acts committed
14 in violation of this paragraph; or

15 “(ii) the acts omitted in violation of this
16 paragraph include kidnapping or an attempt to
17 kidnap, aggravated sexual abuse or an attempt
18 to commit aggravated sexual abuse, or an at-
19 tempt to kill.

20 “(2)(A) Whoever, whether or not acting under color
21 of law, in any circumstance described in subparagraph
22 (B), willfully causes bodily injury to any person or,
23 through the use of fire, a firearm, or an explosive device,
24 attempts to cause bodily injury to any person, because of

1 the actual or perceived religion, gender, sexual orientation,
2 or disability of any person—

3 “(i) shall be imprisoned not more than 10
4 years, or fined in accordance with this title, or both;
5 and

6 “(ii) shall be imprisoned for any term of years
7 or for life, or fined in accordance with this title, or
8 both, if—

9 “(I) death results from the acts committed
10 in violation of this paragraph; or

11 “(II) the acts committed in violation of
12 this paragraph include kidnapping or an at-
13 tempt to kidnap, aggravated sexual abuse or an
14 attempt to commit aggravated sexual abuse, or
15 an attempt to kill.

16 “(B) For purposes of subparagraph (A), the cir-
17 cumstances described in this subparagraph are that—

18 “(i) in connection with the offense, the defend-
19 ant or the victim travels in interstate or foreign
20 commerce, uses a facility or instrumentality of inter-
21 state or foreign commerce, or engages in any activity
22 affecting interstate or foreign commerce; or

23 “(ii) the offense is in or affects interstate or
24 foreign commerce.”.

1 **SEC. 345. DUTIES OF FEDERAL SENTENCING COMMISSION.**

2 (a) AMENDMENT OF FEDERAL SENTENCING GUIDE-
3 LINES.—Pursuant to its authority under section 994 of
4 title 28, United States Code, the United States Sentencing
5 Commission shall study the issue of adult recruitment of
6 juveniles to commit hate crimes and shall, if appropriate,
7 amend the Federal sentencing guidelines to provide sen-
8 tencing enhancements (in addition to the sentencing en-
9 hancement provided for the use of a minor during the
10 commission of an offense) for adult defendants who recruit
11 juveniles to assist in the commission of hate crimes.

12 (b) CONSISTENCY WITH OTHER GUIDELINES.—In
13 carrying out this section, the United States Sentencing
14 Commission shall—

15 (1) ensure that there is reasonable consistency
16 with other Federal sentencing guidelines; and

17 (2) avoid duplicative punishments for substan-
18 tially the same offense.

19 **SEC. 346. GRANT PROGRAM.**

20 (a) AUTHORITY TO MAKE GRANTS.—The Adminis-
21 trator of the Office of Juvenile Justice and Delinquency
22 Prevention of the Department of Justice shall make
23 grants, in accordance with such regulations as the Attor-
24 ney General may prescribe, to State and local programs
25 designed to combat hate crimes committed by juveniles.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to carry out this section.

4 **SEC. 347. AUTHORIZATION FOR ADDITIONAL PERSONNEL**
5 **TO ASSIST STATE AND LOCAL LAW ENFORCE-**
6 **MENT.**

7 There are authorized to be appropriated to the De-
8 partment of the Treasury and the Department of Justice,
9 including the Community Relations Service, for fiscal
10 years 1998, 1999, and 2000 such sums as are necessary
11 to increase the number of personnel to prevent and re-
12 spond to alleged violations of section 245 of title 18, Unit-
13 ed States Code (as amended by this Act).

14 **SEC. 348. SEVERABILITY.**

15 If any provision of this Act, an amendment made by
16 this Act, or the application of such provision or amend-
17 ment to any person or circumstance is held to be unconsti-
18 tutional, the remainder of this Act, the amendments made
19 by this Act, and the application of the provisions of such
20 to any person or circumstance shall not be affected there-
21 by.