

**PENDING MANDATORY MINIMUM LEGISLATION
(AS OF SEPTEMBER 28, 2011)**

SENATE

S. 596—Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2011

Sec. 10 **Minimum Penalties for Possession of Child Pornography**

18 U.S.C. § 2252(b)(2) (Certain activities relating to material involving the sexual exploitation of minors) is amended by providing not less than one year imprisonment if any visual depiction involved in the offense involved a prepubescent minor who had not attained 12 years of age.

18 U.S.C. § 2252A(b)(2) (Certain activities relating to material constituting or containing child pornography) is amended by providing not less than one year imprisonment if any visual depiction involved in the offense involved a prepubescent minor who had not attained 12 years of age.

S. 867—Fighting Gangs and Empowering Youth Act of 2011

Sec. 301 **Criminal Street Gangs**

18 U.S.C. § 521 (Criminal Street Gangs) is amended by providing for imprisonment for any term of years or for life if the violation under amended subsection (b) is based on a predicate gang crime for which the maximum penalty includes life imprisonment.

Sec. 302 **Solicitation or Recruitment of Persons and Violent Crimes in Furtherance or in Aid of Criminal Street Gangs**

Section 523 is added to title 18 to provide imprisonment for any term of years or for life for any person who (1) murders, (2) kidnaps or sexually assaults, or (3) maims any individual, for the purpose of gaining entrance to or maintaining or increasing position in, or in furtherance or in aid of, or for the direct or indirect benefit of, or in purposeful association with a criminal street gang, or as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value to or from a criminal street gang.

Sec. 303 **Interstate and Foreign Travel or Transport in Aid of Racketeering Enterprises and Criminal Street Gangs**

18 U.S.C. § 1952 is amended by adding subsection (b), providing for imprisonment for any term of years for whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with the intent to kill, assault, bribe, force, intimidate, or threaten any person, to delay or influence the testimony of, or prevent from testifying, a witness in a State

criminal proceeding and thereafter performs, or attempts or conspires to perform, an act described in this subsection. Subsection (b) also provides for imprisonment for any term of years or for life, if death results.

Sec. 311 Increased Penalties for use of Firearm in Crime of Violence or Drug Trafficking Crime

18 U.S.C. § 924(c)(1)(A) is amended to increase the minimum penalty from not less than five years to not less than seven years.

S. 977–Fighting Gangs and Empowering Youth Act of 2011

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Sec. 311 Increased Penalties for use of Firearm in Crime of Violence or Drug Trafficking Crime

18 U.S.C. § 924(c)(1)(A) is amended to increase the minimum penalty from not less than five years to not less than seven years.

S. 1002—Strengthening and Focusing Enforcement to Deter Organized Stealing and Enhance Safety Act of 2011 or the SAFE DOSES Act

Sec. 2 Theft of Medical Products

Section 670 (Theft of medical products) is added to title 18 to provide imprisonment for not less than one year for using any means or facility of interstate or foreign commerce, or in or affecting interstate or foreign commerce, to knowingly (1) steal, take without authorization, embezzle, carry away, or obtain by fraud or deception a medical product, or attempt or conspire to do so; (2) transport, handle, traffic in, or store a stolen medical product, or attempt or conspire to do so; or (3) participate, in any way, in a scheme to alter, forge, or falsify the labeling or documentation (including documentation relating to origination or shipping) of a stolen medical product; and the additional factors are present: (A) the value of the medical product or products is not less than \$5,000; and (B) the (i) person (I) buys, or otherwise a medical product, knowing or with reckless disregard as to whether the medical product is expired or has been stolen, with the intent to sell or distribute the medical product; (II) sells, or distributes, a medical product, knowing or with reckless disregard as to whether the medical product is expired or has been stolen; or (III) at the time of the violation is employed by, or is an agent of, an organization in the supply chain from which the stolen or expired medical products were removed, including a manufacturer, wholesaler, repacker, own-label distributor, private-label distributor, jobber, broker, drug trader, transportation company, hospital, pharmacy, or security company; or (ii) the violation (I) involves the use of violence, force, or a threat of violence or force; (II) involves the use of a deadly weapon; (III) results in injury, including the injury of deprivation of treatment, or death caused by ingestion or use of a stolen or expired medical product; or (IV) is the second or subsequent offense under subsection (b) committed by the person.

S. 1151—Personal Data Privacy and Security Act of 2011

Sec. 109 Damage to Critical Infrastructure Computers

Section 1030A is added to title 18 to provide imprisonment for not less than three years nor more than 20 years for offenses, during and in relation to a felony violation of section 1030, intentionally cause or attempt to cause damage to a critical infrastructure computer, and such damage results in (or in the case of an attempt, would, if completed have resulted in) the substantial impairment (1) of the operation of the critical infrastructure computer; or (2) of the critical infrastructure associated with the computer.

S. 1196—Accountability Through Electronic Verification Act

Sec. 4 Consequences of Failure to Participate

8 U.S.C. § 1324a(f) (Criminal penalties and injunctions for pattern or practice violations) is amended to increase the penalty from imprisonment for not more than six months to not less than one year and not more than 10 years.

HOUSE OF REPRESENTATIVES

H.R. 45–Criminal Alien Accountability Act

Sec. 2 Mandatory Sentencing Ranges Related to Reentry By Removed Alien

8 U.S.C. § 1326(a) (Reentry of removed aliens, In general) is amended to increase the penalty from imprisonment for not more than two years to not less than one year and not more than two years. Section 1326(b) of title 8 (Criminal penalties for reentry of certain removed aliens) is amended to increase the penalty under paragraph (1) from imprisonment for not more than ten years to not less than five years and not more than 10 years. Paragraph (2) is amended to increase the penalty from imprisonment for not more than 20 years to not less than ten years and not more than 20 years. Paragraph (4) is amended to increase the penalty from imprisonment for not more than 10 years to not less than five years and not more than ten years.

Section 1327 of title 8 (Aiding or assisting certain aliens to enter) is amended to increase the penalty from imprisonment for not more than ten years to the “range to which the reentering alien is subject” under section 1326(b) of title 8.

H.R. 98–Illegal Immigration Enforcement and Social Security Protection Act of 2011

Sec. 4 Employment Eligibility Database

Creates a penalty of imprisonment for not less than five and not more than seven years, for whoever accesses or uses information in the Employment Eligibility Database without authority to do so, or for an unauthorized purpose.

H.R. 224–David Ray Hate Crimes Prevention Act of 2011 or David’s Law

Sec. 4 Prohibition of Certain Acts of Violence

Section 245 of title 18 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and adds newly designated subsection (c)(1) to provide for imprisonment for any term of years or for life for whoever, whether or not acting under color of law, willfully causes bodily injury to any person, or, through the use of fire, a firearm, or an explosive device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person and death results; or the act included kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

Section 245 of title 18 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and adds newly designated subsection (c)(2) to provide for imprisonment for any term of years or for life for whoever, whether or not acting under color of law, (i) in connection with the offense, the defendant or the victim travels in interstate or foreign

commerce, uses a facility or instrumentality of interstate or foreign commerce, or engages in any activity affecting interstate or foreign commerce; or (ii) the offense is in or affects interstate or foreign commerce, willfully causes bodily injury to any person, or, through the use of fire, a firearm, or an explosive device, attempts to cause bodily injury to any person, because of the actual or perceived religion, gender, sexual orientation, or disability of any person and death results; or the act included kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

H.R. 1196–Loophole Elimination and Verification Enforcement Act of the LEAVE Act

Sec. 101 Alien Smuggling and Related Offenses

Section 1324 of title 8 (Bringing in and harboring certain aliens) is amended to provide a series of increased penalties for various offenses. First, a penalty of imprisonment for not less than three years and not more than 20 years is proscribed for any second or subsequent violation of this section absent any specific mandatory sentencing provision.

Second, in the case where the offense furthers or aids the commission of any offense against the United States or any State, which is punishable by imprisonment for not more than one year, the minimum penalty in the case of a first violation is increased from not less than three years to not less than five years. The penalty for second and subsequent violations remains at not less than five years imprisonment. This provision also removes language that the offense was committed with “the intent or reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States...”

Third, a penalty of imprisonment for not less than five and not more than 20 years is proscribed if an offense created a substantial risk of death or serious bodily injury to another person.

Fourth, a penalty of imprisonment for not less than seven years and not more than 30 years is added for cases where the offense caused serious bodily injury to any person.

Fifth, a penalty of imprisonment for not less than 10 years and not more than 30 years is created for cases where the offense involved an alien who the offender knew or had reason to believe was an alien (i) engaged in terrorist activity or (ii) intended to engage in such terrorist activity.

Sixth, if the offense caused or resulted in the death of any person, a penalty of imprisonment for not less than ten years is proscribed; punishment of death, or for any term of years or for life, remains in the statute.

H.R. 1820–Fighting Gangs and Empowering Youth Act of 2011

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18 U.S.C. § 1952 is amended by adding subsection (b), providing for imprisonment for any term of years for whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with the intent to kill, assault, bribe, force, intimidate, or threaten any person, to delay or influence the testimony of, or prevent from testifying, a witness in a State criminal proceeding and thereafter performs, or attempts or conspires to perform, an act described in this subsection. Subsection (b) also provides for imprisonment for any term of years or for life, if death results.

Sec. 311 Increased Penalties for use of Firearm in Crime of Violence or Drug Trafficking Crime

18 U.S.C. § 924(c)(1)(A) is amended to increase the minimum penalty from not less than five years to not less than seven years.

H.R. 2000–Secure America Through Verification and Enforcement Act of 2011 or the SAVE Act of 2011

Sec. 141 Alien Smuggling and Terrorism Prevention

Amends 8 U.S.C. § 1324(a)(1) and (2) (Criminal Penalties) providing for imprisonment for any term of years or for life if the offense involves kidnapping, an attempt to kidnap, the conduct required for aggravated sexual abuse (as defined in section 2241 of title 18, United State Code, without regard to where it takes place), or an attempt to commit such abuse, or an attempt to kill.

Section 2237 of title 18 (Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information) is amended by adding attempts to commit aggravated sexual abuse (as defined in section 2241 without regard to where it takes place) to the aggravating factors set forth under subsection (b)(2)(B) that carry a range of imprisonment for any term of years or for life.

H.R. 2164—Legal Workforce Act

Sec. 2 Employment Eligibility Verification Process

Section 1824a(b) of title 8 (Employment verification system) is amended and provides for a penalty of imprisonment for not less than one year and not more than 15 years for any individual who provides a social security account number or an identification or authorization number established by the Secretary of Homeland Security that belongs to another person, knowing that the number does not belong to the individual providing the number. This section also provides for a penalty of imprisonment for a term of two years for any individual who provides, during and in relation to any felony violation enumerated in section 1028A(c) of title 18, United States Code, a social security account number or an identification or authorization number established by the Secretary of Homeland Security that belongs to another person, knowing that the number does not belong to the individual providing the number, in addition to the punishment provided for such felony.

Sec. 3 Employment Eligibility Verification System

Section 1324a(d) of title 8 (Evaluation and changes in employment verification system) is amended, providing a penalty of imprisonment for not less than one year and not more than 15 years for any person or entity, that making an inquiry under subsection (b)(1)(C)(i)(II) (Retention of Verification Form and Verification), provides to the verification system a social security account number or an identification or authorization number established by the Secretary of Homeland Security that belongs to a person other than the individual whose identity and employment authorization are being verified, knowing that the number does not belong to the individual whose identity and employment are being verified. This section also provides for a penalty of imprisonment for a term of two years if the person or entity, in making an inquiry under subsection (b)(1)(C)(i)(II) (Retention of Verification Form and Verification), during and in relation to any felony violation enumerated in section 1028A(c) of title 18, United States Code, provides to the verification system a social security account number or an identification or authorization number established by the Secretary of Homeland Security that belongs to a person other than the individual whose identity and employment authorization are being verified, knowing that the number does not belong to the individual whose identity and work authorization are being verified, in addition to the punishment provided for such felony.

Sec. 8 Penalties

Section 1324a(f) of title 8 (Criminal penalties and injunctions for pattern or practice violations) is amended to increase the penalty for any person or entity which engages in a pattern or practice

of violations from “be fined not more than \$3,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than six months for the entire pattern or practice, or both...” to “be fined not more than \$15,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not less than one year and not more than ten years, or both..”

H.R. 2839–Piracy Suppression Act

Sec. 2 Act of Piracy

Section 4297 of the Revised Statutes of The United States (Section 385 of title 33 (Seizure and condemnation of vessels fitted out for piracy)) is amended by providing for punishment by death or imprisonment for life for whoever commits an act of piracy.

H.R. 2885–Legal Workforce Act

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