

PROVIDING FOR CONSIDERATION OF H.R. 1279, GANG
DETERRENCE AND COMMUNITY PROTECTION ACT OF
2005

MAY 10, 2005.—Referred to the House Calendar and ordered to be printed

Mr. GINGREY, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 268]

The Committee on Rules, having had under consideration House Resolution 268, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1279, the Gang Deterrence and Community Protection Act of 2005, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment.

The rule makes in order only those amendments printed in this report. The rule provides that the amendments printed in this report may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in this report. The rule provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

The Committee is not aware of any points of order against consideration of the bill. The waiver of all points of order against consideration of the bill is prophylactic in nature.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 50

Date: May 10, 2005.

Measure: H.R. 1279, Gang Deterrence and Community Protection Act of 2005.

Motion by: Ms. Slaughter.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Capuano, which reauthorizes the Community Oriented Policing Services (COPS) program for FY2006–FY2008.

Results: Defeated 3 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

Rules Committee record vote No. 51

Date: May 10, 2005.

Measure: H.R. 1279, Gang Deterrence and Community Protection Act of 2005.

Motion by: Ms. Matsui.

Summary of motion: To make in order and provide the appropriate waivers for the amendment offered by Mr. Schiff, which authorizes the expansion and enhancement of law enforcement and community-based prevention and intervention programs targeting criminal street gangs, gang members, and at-risk youth.

Results: Defeated 3 to 8.

Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Matsui—Yea; Dreier—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER

(Summaries derived from information provided by the amendment sponsor.)

1. Sensenbrenner: Manager's Amendment. Excludes property crimes from crime of violence definition for Gang Crimes under revised 18 U.S.C. 521 Gang Crime; Replaces current text with revised changes to existing 18 U.S.C. 1952, Interstate and Foreign Travel in Aid of Racketeering Enterprises, to retain existing interstate commerce requirement, to add conspiracies as possible violation, and to increase penalties for violations; Inserts existing statute text which was inadvertently omitted from introduced and reported versions of H.R. 1279; modifies crime of violence definition under 18 U.S.C. 16(b) to clarify that act, by its nature, creates substantial risk that physical injury may result to person or property of another; clarifies exception to ban on possession of handguns by

juveniles under 18 U.S.C. 922(x) to permit juvenile to possess firearm while in the presence of parent or guardian who is not prohibited from possessing such a firearm by Federal, State or local law, and does not require that juvenile have written authorization from such parent or guardian; includes other technical and grammatical changes. (10 minutes)

2. Cuellar: Establishes a National Gang Intelligence Center at the Federal Bureau of Investigation. Also adds \$10 million in authorization for the National Gang Intelligence Center, which mirrors the \$10 million appropriation given for FY 2005. (10 minutes)

3. Johnson E.B.: Establishes funding for regional databases that track gang activity in high intensity gang areas. (10 minutes)

4. Watson: Requires the Attorney General to seek input from local elected officials before designating an area as a "High-Intensity Interstate Gang Activity Area." (10 minutes)

5. Watson: Adds 100 new inspectors and 100 new agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives. New inspectors and agents would be assigned to the new High-Intensity Interstate Gang Activity Areas. (10 minutes)

6. Wynn: Authorizes the Attorney General to conduct a media campaign about the changes in penalties. (10 minutes)

7. Goodlatte: Adds 5 years to any sentence for violent crimes or drug trafficking offenses when the violator is an illegal alien. Also adds 15 years to any such sentence if the illegal alien has been previously deported on the grounds of a criminal offense and has re-entered the country. Requires the Department of Homeland Security to send all the names of individuals who are subject to deportation orders or who have signed voluntary deportation papers to the National Crime Information Center (NCIC). (20 minutes)

8. Norwood: Requires DHS to provide to the National Crime Information Center of the Department of Justice information on three categories of illegal aliens: those with a final order of removal, those who have signed a voluntary departure agreement, and those who have overstayed their visa. (10 minutes)

9. Norwood: Requires a study to be conducted by the Department of Justice and the Department of Homeland Security on the link of illegal aliens and gang membership. (10 minutes)

10. Waters/Scott (VA): Strikes all sections of the bill that sets mandatory minimum sentences (sections 102, 103, 104, 105, 106 and 107). (20 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SENSENBRENNER OF WISCONSIN, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 4, lines 13 through 14, strike "under subparagraphs (A), (B), or (C)" and insert "under subparagraph (A), (B), or (C)".

Page 4, line 23, insert "(other than a crime of violence against the property of another)" before the period.

Page 7, line 10 through the matter after line 2, page 9, strike section 102 and insert the following:

SEC. 102. INCREASED PENALTIES FOR INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF RACKETEERING.

Section 1952 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “perform” and all that follows through the end of the subsection and inserting “perform an act described in paragraph (1), (2), or (3), or conspires to do so, shall be punished as provided in subsection (d).”; and

(2) by adding at the end following:

“(d) The punishment for an offense under subsection (a) is—

“(1) in the case of a violation of paragraph (1) or (3), a fine under this title and imprisonment for not less than 5 nor more than 20 years; and

“(2) in the case of a violation of paragraph (2), a fine under this title and imprisonment for not less than 10 nor more than 30 years, but if death results the offender shall be sentenced to death, or to imprisonment for any term of years or for life.”.

Page 9, line 24, strike “drug trafficking crime,” and insert “drug trafficking crime (as defined in subsection (c)(2)).”.

Page 11, line 11, strike “this title” and insert “this title—”.

Page 12, line 10, insert “, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or” after “crime of violence”.

Page 13, line 8, strike “following: —” and insert “following:”.

Page 15, line 7, strike “423,” and insert “423”.

Page 16, line 1, strike “is assault resulting”.

Page 19, line 8, strike “force may be used against” and insert “injury may result to”.

Page 19, line 10, strike “subparagraphs (A), (B), or (C)” and insert “subparagraph (A), (B), or (C)”.

Page 20, after line 17, insert the following new subsection and redesignate the succeeding subsection accordingly:

(b) CLARIFICATION OF BAN ON POSSESSION OF HANDGUNS BY JUVENILES.—Section 922(x)(3) of title 18, United States Code, is amended—

(1) by striking “or” at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting “; or”; and

(3) by adding at the end the following:

“(E) the possession of a handgun or ammunition by a juvenile, while in the presence of a parent or guardian of the juvenile, if such parent or guardian, as the case may be, is not prohibited by Federal, State, or local law from possessing a firearm. ”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CUELLAR OF TEXAS, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 26, after line 2, insert the following (and redesignate succeeding subsections accordingly):

(c) NATIONAL GANG INTELLIGENCE CENTER.—

(1) ESTABLISHMENT.—The Attorney General shall establish a National Gang Intelligence Center to be housed at and administered by the Federal Bureau of Investigation to collect, analyze, and disseminate gang activity information from—

(A) the Federal Bureau of Investigation;

(B) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

- (C) the Drug Enforcement Administration;
 - (D) the Bureau of Prisons;
 - (E) the United States Marshals Service;
 - (F) the Directorate of Border and Transportation Security of the Department of Homeland Security;
 - (G) the Department of Housing and Urban Development;
 - (H) State and local law enforcement;
 - (I) Federal, State, and local prosecutors;
 - (J) Federal, State, and local probation and parole offices;
 - and
 - (K) Federal, State, and local prisons and jails.
- (2) INFORMATION.—The Center established under paragraph (1) shall make available the information referred to in paragraph (1) to—
- (A) Federal, State, and local law enforcement agencies;
 - (B) Federal, State, and local corrections agencies and penal institutions; and
 - (C) Federal, State, and local prosecutorial agencies.
- (3) ANNUAL REPORT.—The Center established under paragraph (1) shall annually submit to Congress a report on gang activity.
- Page 26, line 10, strike “\$50,000,000” and insert “\$60,000,000”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE E.B. JOHNSON OF TEXAS, OR HER DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 26, after line 2, insert the following new subsection (and redesignate succeeding subsections accordingly):

- (c) NATIONAL AND REGIONAL GANG ACTIVITY DATABASES.—
- (1) DATABASES REQUIRED.—From amounts made available to carry out this section, the Attorney General shall establish—
- (A) for each high intensity interstate gang activity area, a regional gang activity database; and
 - (B) a national gang activity database that replicates the information in the regional databases.
- (2) DESCRIPTION.—Each regional gang activity database required by paragraph (1) shall—
- (A) be designed to disseminate gang information to law enforcement agencies throughout the region;
 - (B) contain critical information on gangs, gang members, firearms, criminal activities, vehicles, and other information useful for investigators in solving gang-related crimes; and
 - (C) operate in a manner that enables law enforcement agencies to—
 - (i) identify gang members involved in crimes;
 - (ii) track the movement of gangs and members throughout the region;
 - (iii) coordinate police response to gang violence;
 - (iv) enhance officer safety;
 - (v) provide realistic, up to date figures and statistical data on gang crime and violence;
 - (vi) forecast trends and respond accordingly; and

(vii) more easily solve crimes and prevent violence.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATSON OF CALIFORNIA, OR HER DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 26, after line 2, insert the following:

(5) CONSULTATION REQUIRED.—The Attorney General may not designate a high intensity interstate gang activity area without first consulting with and receiving comment from local elected officials representing communities within the State of proposed designation.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATSON OF CALIFORNIA, OR HER DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 26, after line 7, insert the following:

(d) ADDITIONAL BATFE INSPECTORS AND AGENTS.—The Attorney General, acting through the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, is authorized to hire 100 additional inspectors and 100 additional agents for the Bureau. Each inspector and agent hired under this subsection shall be assigned to a high intensity interstate gang activity area, for the purpose of assisting local law enforcement agencies to provide more accurate and complete reports to the Bureau of weapons used by gangs in the area.

Page 26, line 8, strike “(d)” and insert “(e)”.

Page 26, line 11, strike “and”.

Page 26, line 13, strike the period and insert “; and”.

Page 26, after line 13, insert the following:

(3) \$20,000,000 for each of the fiscal years 2006 through 2010 to carry out subsection (d).

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WYNN OF MARYLAND, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 22, after line 3, insert the following:

SEC. 116. PUBLICITY CAMPAIGN ABOUT NEW CRIMINAL PENALTIES.

The Attorney General is authorized to conduct media campaigns in those areas designated as high intensity interstate gang activity areas and those areas with existing and emerging problems with gangs, as needed, to educate individuals there about the changes in criminal penalties made by this Act, and to report to the Committee on the Judiciary of the House of Representatives the amount of expenditures and all other aspects of the media campaign.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOODLATTE OF VIRGINIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 20 MINUTES

Page 22, after line 3, insert the following:

SEC. 116. CRIMES OF VIOLENCE AND DRUG CRIMES COMMITTED BY ILLEGAL ALIENS.

(a) OFFENSES.—Title 18, United States Code, is amended by inserting after chapter 51 the following new chapter:

“CHAPTER 52—ILLEGAL ALIENS

“Sec.

“1131. Enhanced penalties for certain crimes committed by illegal aliens.

“§ 1131. Enhanced penalties for certain crimes committed by illegal aliens

“Whoever, being an alien who is unlawfully present in the United States, commits, conspires or attempts to commit, a crime of violence (as defined in section 16) or a drug trafficking offense (as defined in section 924), shall be fined under this title and sentenced to not less than 5 years in prison. If the defendant was previously ordered removed under the Immigration and Nationality Act on the grounds of having committed a crime, the defendant shall be sentenced to not less than 15 years in prison. A sentence of imprisonment imposed under this section shall run consecutively to any other sentence of imprisonment imposed for any other crime.”.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 51 the following new item:

“52. Illegal aliens 1131”.

SEC. 117. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NCIC.—Not later than 180 days after the date of enactment of this Act, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Director may have on any and all aliens against whom a final order of removal has been issued, and any and all aliens who have signed a voluntary departure agreement. Such information shall be provided to the National Crime Information Center regardless of whether or not the alien received notice of a final order of removal and even if the alien has already been removed.

(b) INCLUSION OF INFORMATION IN THE NCIC DATABASE.—Section 534(a) of title 28, United States Code, is amended—

- (1) in paragraph (3), by striking “and” at the end;
- (2) by redesignating paragraph (4) as paragraph (5); and
- (3) by inserting after paragraph (3) the following:

“(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether or not the alien has received notice of the violation and even if the alien has already been removed; and”.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE NORWOOD OF GEORGIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 22, line 3, insert the following:

SEC. 116. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) **PROVISION OF INFORMATION TO THE NCIC.**—Not later than 180 days after the date of enactment of this Act, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Director may have on any and all aliens against whom a final order of removal has been issued, any and all aliens who have signed a voluntary departure agreement, and any and all aliens who have overstayed their visa. Such information shall be provided to the National Crime Information Center regardless of whether or not the alien received notice of a final order of removal and even if the alien has already been removed.

(b) **INCLUSION OF INFORMATION IN THE NCIC DATABASE.**—Section 534(a) of title 28, United States Code, is amended—

- (1) in paragraph (3), by striking “and” at the end;
- (2) by redesignating paragraph (4) as paragraph (5); and
- (3) by inserting after paragraph (3) the following:

“(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether or not the alien has received notice of the violation and even if the alien has already been removed; and”.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE NORWOOD OF GEORGIA, OR HIS DESIGNEE, TO BE DEBATABLE FOR 10 MINUTES

Page 22, after line 3, insert the following:

SEC. 116. STUDY.

The Attorney General and the Secretary of Homeland Security shall jointly conduct a study on the connection between illegal immigration and gang membership and activity, including how many of those arrested nationwide for gang membership and violence are aliens illegally present in the United States. The Attorney General and the Secretary shall report the results of that study to Congress not later than one year after the date of the enactment of this Act.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WATERS OF CALIFORNIA, OR HER DESIGNEE, TO BE DEBATABLE FOR 20 MINUTES

Strike section 102.
 Strike section 103.
 Strike section 104.
 Strike section 105.
 Strike section 106.
 Strike section 107.