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U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

24 FEB 1984

M E M O R A N D U M

TO: M. B. Oglesby
Assistant to the President
for Legislative Affairs

FROM: Robert A. McConnell
Assistant Attorney General
Office of Legislative Affairs

SUBJECT: New Sexual Assault Legislation

→ NR
B-
Bobbi eros (EROS OR HAS)
already spoken
to me about this
bill - instead of
NR RR?

As you will note by the attached, a new sexual assault reform bill has been introduced in the House with considerable fanfare, perhaps in part to give its sponsors a new "women's" issue. Bobbi Fiedler joined the group at the last minute and noted at the press conference, in response to a question about the Administration position on the bill, that she has a close personal relationship with the President and would be meeting with him to urge his endorsement of the bill.

The bill is generally consistent with the sexual assault provision of the old Criminal Code Reform Act, S. 1630, and thus will likely pose few major problems from a law enforcement perspective. Two aspects of the approach caused concerns among conservatives, however, when this was part of the recodification effort: (1) deletion of the spousal exception to prosecutions for forcible rape; and (2) establishing a graded structure for all varieties of sexual assaults which has the effect of reducing existing sanctions for some offenses.

In short, this issue is not without potential pitfalls. I send this as an information piece only. We are already circulating the legislation within the Department in order to develop a Departmental position to send in for OMB clearance.

Attachments



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

M E M O R A N D U M

TO: D. Lowell Jensen
Associate Attorney General

William H. Webster
Director
Federal Bureau of Investigation

Stephen S. Trott
Assistant Attorney General
Criminal Division

FROM: Robert A. McConnell
Assistant Attorney General
Office of Legislative Affairs

SUBJECT: Sexual Assault Act of 1984, H.R. 4876

Enclosed for your information and review are materials pertaining to the subject bill introduced yesterday. In summary, this bill purports to be a modernization of existing federal sexual assault laws consistent with modernizations made by most States. In general, the bill proposes to establish a graded range of sexual assault provisions covering unauthorized touching to forcible rape. It would also make sexual assault laws sex neutral and eliminate any spousal exception to a prosecution for forcible rape.

Generally speaking, this bill is basically similar to the recodification of sexual assault laws proposed in the Criminal Code Reform Act (see attached excerpt from S. 1630 of the 97th Congress) which we endorsed. Despite the fact that the bill should be generally agreeable to us, however, I gather that sexual assault recodification was one of the more controversial aspects of the Criminal Code Reform Act.

In view of the fanfare surrounding introduction of this bill, I believe we should formulate a position on this proposal in the event its sponsors are able to secure House hearings on the bill. I suggest that the Criminal Division be the reporting unit with a deadline of March 21, FBI to be the advisory unit with a deadline of March 15, copies of all reports to be forwarded both to the Associate Attorney General and OLA.

Attachments

STENY H. HOYER
5TH DISTRICT, MARYLAND

Congress of the United States
House of Representatives
Washington, D.C. 20515

APPROPRIATIONS COMMITTEE

TREASURY, POSTAL SERVICE,
GENERAL GOVERNMENT

LABOR,
HEALTH AND HUMAN SERVICES,
EDUCATION

FOR IMMEDIATE RELEASE

February 21, 1984

HOYER INTRODUCES THE SEXUAL ASSAULT ACT OF 1984

"Prior to my coming to the Congress, when I served as President of the Maryland Senate, I also acted as Chairman of the Maryland General Assembly's Special Legislative Committee on Rape and Related Offenses.

"Out of the work of this Committee came the adoption in 1976 of a major revision and reform of the state's laws and evidentiary rules concerning rape and sexual offenses. This development was clearly the result of the recognition, at the time, of the marked increase in the incidence of rape, together with a growing concern in society about the emotional trauma and treatment experienced by the victims of crime. This heightened awareness, both of the difficulty faced by the prosecutors in successfully prosecuting rape cases and in the mistreatment and handling of victims of these crimes by the very system that should protect them, prompted Maryland to modernize and reform its rape and sexual offense laws.

"Unfortunately, the positive reform undertaken by the states has not yet reached the federal level. Although sexual offense crimes are principally a concern of state law enforcement, they become a significant federal law enforcement problem as well when they occur within the Special Maritime and Territorial Federal Jurisdiction. It is imperative for federal sexual offense laws also to be updated in order to ensure the availability of effective prosecutorial tools.

"To this end, today, we--my colleagues Bob Carr, Barbara Mikulski and I--are introducing this legislation which seeks to reform existing federal laws as they pertain to sexual offenses. In brief, our bill would replace the current law by adopting a series of graded sexual offenses. A second significant change would be to replace the term 'rape' with a reformulation of the offense in terms of sexual assault. In addition, it would eliminate the spousal exception and would make the statute 'sex neutral;' that is, it would apply both to hetero and homosexual forcible circumstances as well as expanding the scope of the law's protection to males.

"Presently, federal law fails to acknowledge that the factual circumstances of all sexual offenses are not the same and are thus not subject to the same penalty. This series of gradation would reflect the reality of the actual situation, and would permit a greater latitude of discretion among the prosecutor, defense attorney and presiding judge in determining the outcome of the individual cases.

"Thus the proposed legislation would replace the current single crime of 'rape' with a series of graded offenses ranging from sexual battery, which would be a misdemeanor punishable by imprisonment not to exceed one year, to aggravated sexual assault, which would be a felony punishable by up to life imprisonment.

"In addition to gradation, a second significant change imposed by the legislation is to replace the term 'rape' with a reformulation of the offense in terms of sexual assault. This is more than a symbolic gesture or a simple renaming of a violent crime, for it does represent a significant break with tradition and with the connotations surrounding the word 'rape.'

"The change carries with it a substantial rethinking both in how we view the crime of rape as well as how it is prosecuted. By defining the offense in terms of assault, which by definition implies nonconsent, the legislation attempts to redirect the factfinder's focus away from the victim to the offender's actions.

"The problem of eliminating sexist traditions, which have evolved around the concepts of 'consent' and 'against her will' is enormous. Historically, the overriding significance attached to determining whether the victim has consented has had serious repercussions upon the victim who often felt as if she were the offender.

"The third change is the elimination of the spousal exception. Under English Common Law, a man could not be found guilty of raping his wife. This justification has been explained in terms of consent, which has been deemed a matrimonial privilege existing for as long as the term of marriage. The theory that a woman possessed the right to deny her spouse sexual access was, and is still viewed by many state statutes as being inconsistent with the social expectations regarding marriage. Another justification for the spousal exception is that historically, women were regarded as the property of their husbands just as children were regarded as property of their fathers.

"It is true that marriage involves a prior and continuing relation of intimacy. The law does not recognize, however, the right of a spouse to beat the other nor does the law erect legal shields behind which spouses may engage in otherwise violent behavior. In this instance, sexual assault carries additional burdens. It involves violence as well as a specific kind of degrading and unwanted intimacy. The law does not sanction sexual violence between strangers or among friends. There is no justification for permitting it between spouses.

"Lastly, as I indicated previously, the legislation is sex neutral and thus applies both to hetero and homosexual forcible circumstances as well as expanding the scope of the law's protection to males.

"The goals of reforming federal law in the area of sexual offenses are these: to increase the number of convictions by providing prosecutors with effective tools; and to ensure that the interests of victims are respected in the criminal justice process. I believe that the proposed legislation will assist in attaining such goals," Congressman Hoyer said.

For more information, contact Sherry Conway, 225-4131.

#

For more information:
Sherry Conway (Hoyer) 225-4131
Liz Buchanan (Carr) 225-4872

THE SEXUAL ASSAULT ACT OF 1984, IN BRIEF

The Sexual Assault Act of 1984 proposes reform of Federal sexual offense laws. The bill proposes the adoption of graded sexual offenses based upon the theory that these crimes should be categorized and dealt with in terms of the seriousness of the offense, the degree of criminal activity undertaken by the assailant, and the extent of harm suffered by the victim. The gradations are as follows:

SEXUAL BATTERY is defined as an intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any person, without that person's consent and with the intent to arouse or gratify sexual desire, or to abuse. The act need not involve violence, the threat of violence, or coercion, and may be accomplished through the victim's clothing. Sexual battery is a misdemeanor punishable by a fine of \$500 or imprisonment of not more than one year, or both.

AGGRAVATED SEXUAL BATTERY involves the same intentional touching as sexual battery, but the magnitude of harm caused by the perpetrator is greater. In certain instances, contact will be aggravated by the use of actual force, intoxicants or other similar substances, or the threat of bodily harm. The presence of aggravating circumstances raises the likelihood of harm to the victim and measures the degree of criminal activity undertaken by the assailant. The offense is punishable by imprisonment of up to 10 years.

SEXUAL ABUSE OF A MINOR prohibits consensual sexual acts between a minor who is at least 12 but not yet 16 years of age and an individual who is at least four years older than the minor. This conduct is punishable by imprisonment not to exceed five years.

SEXUAL ASSAULT involves engaging in a sexual act which is defined as genital intercourse, cunnilingus, anilingus, fellatio, anal intercourse and any penetration by any object of any person's genital or anal opening with the intent to arouse or gratify the sexual desire or to abuse any person; with the following: 1) persons known by the offender to be incapable of appraising the nature of such conduct; 2) those who are physically incapable of declining participation in or communicating unwillingness to engage in the sexual act; and 3) those persons compelled to engage in such sexual activity by threat of present or future physical harm to any person in circumstances in which the person so threatened or placed in fear reasonably believes the offender has the ability to effectuate such harm. The punishment is up to fifteen years.

AGGRAVATED SEXUAL ASSAULT occurs where the sexual assault is accomplished by the use of physical force or by a threat that any person will be imminently subjected to death, serious bodily injury or kidnapping such as where the assailant employs or displays a dangerous or deadly weapon or is aided and abetted by one or more other persons. Additional aggravating circumstances are when the assault is performed upon a child not yet 12 years of age if the offender is at least 4 years older, and where the assault is performed upon an individual whose ability to appraise his or her conduct has been substantially impaired by the imposition of intoxicants or other similar substances by the offender. The punishment is up to 25 years. If however, during the offense of aggravated sexual assault the offender inflicts severe bodily injury, disfigurement, permanent disease, or protracted incapacitating mental anguish upon the victim or any person, the offender is subject to a term of life imprisonment.

A second change proposed by this Act is the elimination of the spousal exception. Violent crimes against spouses are a national problem and need to be addressed at the national level.

Finally, the legislation is sex neutral and thus applies both to hetero and homosexual forceable circumstances in addition to expanding the scope of the law's protection to males.

LET'S BRING FEDERAL RAPE LAWS INTO THE 20TH CENTURY

A statement by Congressman Bob Carr

February 21, 1984

Mr. Speaker, I am joining Mr. Hoyer today in introducing a bill to fight one of the most serious violent crimes in America today -- the crime of rape.

In the past few years, our society has experienced a revolution in our thinking about rape. We are finally coming to realize that this very personal violation of privacy is fundamentally a violent crime. We've realized that its victims come from every age group and every walk of life. We've realized that this crime is a grave threat to the safety and well-being of all our citizens, especially women and children.

We've also realized that it's often not easy to put the sexual criminal behind bars. Some of society's most violent criminals are walking the streets today because the laws in many parts of our country -- and on the federal books -- are not adequate to address sexual crimes.

We need laws that acknowledge the complexity of rape. Just as not every murder is a first degree murder, not every sexual assault is a first degree offense. We try the crime of murder by degree, and we should do the same with the crime of sexual assault.

On that score, I'm proud to commend my state of Michigan for its leading role in bringing rape laws into the twentieth century. We've set an example for many other states by putting a "staircase" of sexual assault laws into our state code.

The most violent sexual assaults in Michigan continue to draw a very severe penalty -- life imprisonment. However, cases involving little or no violence -- cases which once might have been thrown out of court -- are now prosecuted as well, and a conviction often results. Our laws match offenses, which means more criminals are going to jail.

Let me offer a brief picture of the progress this law has brought about in Michigan. In Detroit, the conviction rate for rape has held steady at 70 percent since 1975, when the sexual conduct statute went into effect. The number of convictions in Michigan as a whole jumped from eight per month before 1975 to 21 per month between 1976 and 1978.

Many states have followed this example, resulting in improved conviction rates across the country. However, the federal code maintains the archaic view of rape as a one-dimensional crime. It is crucial that we bring our federal standard into line with the progressive laws of states such as Michigan.

This is not only important in the few sexual assault cases tried under federal jurisdiction, it is important in setting the pace for thinking across our nation, in creating a model for states which have not updated their laws.

Why is this so important? Because there is one forcible rape in our nation every seven minutes. The number of rapes reported has climbed steadily over the past decade. However, the number of convictions nationwide remains at about 50 percent. Too many sexual criminals continue to walk the streets in our country.

By putting modern sexual assault laws onto the federal books, we are saying that 50 percent is not enough. We are putting the federal government solidly behind the states' efforts to fight this unspeakable crime. We are helping set a standard that puts violent criminals behind bars, and we are assuring that all Americans -- especially women and children -- can walk the streets and live their lives safely and without fear.

Congressman

BOB CARR

6th Congressional District, Michigan



Room 2439 Rayburn House Office Building
Washington, D.C. 20515
(202) 225-4872

NEWS RELEASE

FOR RELEASE: Tuesday, Feb. 21, 1984
CONTACT: Liz Buchanan (202) 225-4872

CARR JOINS IN SPONSORING BILL TO BRING FEDERAL RAPE LAW
INTO THE TWENTIETH CENTURY

WASHINGTON -- Congressman Bob Carr (D-MI) today joined Rep. Steny Hoyer (D-MD) and other members of the Congressional Caucus for Women's Issues in introducing a bill to bring federal rape law into the twentieth century.

Carr said he supports the bill, known as the Sexual Assault Act of 1984, because it is closely patterned after Michigan's pioneering four-tiered criminal sexual conduct law. The bill would replace an archaic, one-sentence federal rape statute, used in cases tried under federal jurisdiction.

"We try the crime of murder by degree, and we should do the same with the crime of sexual assault," Carr said.

Carr praised Michigan's success in convicting sexual criminals under the Criminal Sexual Conduct Statute passed in 1975. In the two years after the law passed, the number of rape convictions increased from 8 to 21 per month. The conviction rate in the Detroit area has held steady at about 70 percent since passage of the statute.

Hoyer and Carr's bill, like Michigan's law, would adopt four gradations of sexual offenses. The most serious gradation, aggravated sexual assault, would be punishable by 25 years in prison, or a life sentence in case of permanent, severe injury to the victim. Three other levels would stipulate lower sentences for less violent assaults.

"Under more limited laws -- such as the current federal law -- judges must choose between a very serious sentence or nothing at all. This allows many sexual criminals to escape conviction," Carr said.

The bill also removes the word "rape" from the law, replacing it with "assault," in order to remove attention from the question of whether the victim has resisted the crime.

The bill also allows conviction of a spouse for sexual assault and extends protection to males who are sexually assaulted.

98th CONGRESS
2d SESSION

(Original signature of Member)

H.R._____

HLC

Insert
title
here
☞

To amend title 18 of the United States Code with respect to
sexual assaults.

IN THE HOUSE OF REPRESENTATIVES

_____, 19____

Ms. Fiedler

Mr. HOYER (for himself, Mr. CARR and Ms. MIKULSKI) introduced the following
bill; which was referred to the Committee on _____

Insert
sponsor's
names
here
☞

A BILL

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

1 That this Act may be cited as the "Sexual Assault Act of
2 1984".

3 SEC. 2. Title 18 of the United States Code is amended by
4 inserting after chapter 109 the following new chapter:

5 "CHAPTER 109A--SEXUAL ASSAULTS

- "Sec.
- "2241. Aggravated sexual assault.
- "2242. Sexual assault.
- "2243. Sexual abuse of a minor.
- "2244. Aggravated sexual battery.
- "2245. Sexual battery.
- "2246. Definitions for chapter.

6 "§2241. Aggravated sexual assault

7 "(a) Whoever, in the special maritime and territorial
8 jurisdiction of the United States--

9 "(1)(A) knowingly uses physical force against
10 another person; or

11 "(B) knowingly threatens or places another person
12 in fear that any person will be imminently subjected to
13 death, serious bodily injury, or kidnaping; and

14 "(2) thereby knowingly compels such other person to
15 engage in a sexual act with any person;

16 shall be punished as is provided in subsection (d) of this
17 section.

18 "(b) Whoever, in the special maritime and territorial
19 jurisdiction of the United States, knowingly engages in a
20 sexual act with another person who--

21 "(1) has not attained the age of twelve years; and

1 ''(2) whose age is at least four years younger than
2 the person so engaging;
3 shall be punished as is provided in subsection (d) of this
4 section.

5 ''(c) Whoever, in the special maritime and territorial
6 jurisdiction of the United States, knowingly administers to
7 another person by force, threat of force, or without that
8 person's knowledge or consent an intoxicant or other similar
9 substance and thereby--

10 (1) knowingly substantially impairs the ability of
11 that other person to appraise or control conduct; and

12 (2) knowingly engages in a sexual act with that
13 other person;

14 shall be punished as is provided in subsection (d) of this
15 section.

16 ''(d) The punishment for an offense under this section
17 is imprisonment for not more than twenty-five years, but if
18 during the offense the offender inflicts severe bodily
19 injury, disfigurement, permanent disease, or protracted
20 incapacitating mental anguish on any person, the punishment
21 for an offense under this section is imprisonment for life,
22 or any term of years.

23 ''§2242. Sexual assault

24 ''(a) Whoever, in the special maritime and territorial
25 jurisdiction of the United States, knowingly engages in a

1 sexual act with another person if such other person is known
2 by the offender to be--

3 ''(1) incapable of appraising the nature of the
4 conduct; or

5 ''(2) physically incapable of declining
6 participation in, or communicating unwillingness to
7 engage in, that sexual act;

8 shall be imprisoned not more than fifteen years.

9 ''(b) Whoever, in the special maritime and territorial
10 jurisdiction of the United States, knowingly threatens
11 another person or places another person in fear of present
12 or future physical harm to any person in circumstances in
13 which the person so threatened or placed in fear reasonably
14 believes the offender has the ability to effectuate such
15 harm, and thereby compels the person so threatened or placed
16 in fear to engage in a sexual act shall be imprisoned not
17 more than fifteen years.

18 ''§2243. Sexual abuse of a minor

19 ''(a) Whoever, in the special maritime and territorial
20 jurisdiction of the United States, knowingly engages in a
21 sexual act with another person who--

22 ''(1) is not the offender's spouse;

23 ''(2) who has attained the age of twelve years but
24 has not attained the age of sixteen years; and

25 ''(3) is at least four years younger than the

1 offender;
2 shall be imprisoned not more than five years.

3 '(b) Whoever, in the special maritime and territorial
4 jurisdiction of the United States, knowingly engages in
5 sexual contact with another person, if so to do would
6 violate subsection (a) of this section had the sexual
7 contact been a sexual act, shall be imprisoned not more than
8 one year.

9 ''§2244. Aggravated sexual battery

10 ''Whoever engages in or compels sexual contact with or
11 by another person, if so to do would violate section 2241 or
12 2242 of this title had the sexual contact been a sexual act,
13 shall be imprisoned not more than ten years.

14 ''§2245. Sexual battery

15 ''Whoever, in the special maritime and territorial
16 jurisdiction of the United States, knowingly engages in
17 sexual contact with another person without that person's
18 consent shall be fined not more than \$500 or imprisoned not
19 more than one year, or both.

20 ''§2036. Definitions for chapter

21 ''As used in this chapter--

22 '(1) the term 'sexual act' means genital
23 intercourse, cunnilingus, analingus, fellatio, anal
24 intercourse, and any penetration by any object of any
25 person's genital or anal opening with the intent to

1 arouse or gratify the sexual desire of or to abuse any
2 person; and

3 '(2) the term 'sexual contact' means the
4 intentional touching either directly or through the
5 clothing of the genitalia, anus, groin, breast, inner
6 thigh, or buttocks of any person with the intent to
7 arouse or gratify the sexual desire of or to abuse any
8 person.''.
9

10 SEC. 3. (a) Title 18 of the United States Code is
11 amended by striking out chapter 99.

12 (b) The table of chapters at the beginning of part I of
13 title 18 of the United States Code is amended--

14 (1) by striking out the item relating to chapter 99;

15 and

16 (2) by inserting after the item relating to chapter
17 109 the following item:

''109A. Sexual assaults.....2241''.

97TH CONGRESS
1ST SESSION

S. 1630

To codify, revise, and reform title 18 of the United States Code; and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17 (legislative day, SEPTEMBER 9), 1981

Mr. THURMOND (for himself, Mr. BIDEN, Mr. HATCH, Mr. KENNEDY, Mr. DENTON, Mr. DECONCINI, Mr. DOLE, Mr. EAST, Mr. LAXALT, Mr. SIMPSON, and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To codify, revise, and reform title 18 of the United States Code; and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the United States*
2 *of America in Congress assembled, That this Act may be cited as the "Criminal*
3 *Code Reform Act of 1981".*

4 TITLE I—CODIFICATION, REVISION, AND REFORM OF TITLE 18

5 SEC. 101. Title 18 of the United States Code, which may be cited as "18
6 U.S.C. —" or as "Federal Criminal Code —", is amended to read as follows:

"Subchapter D—Hijacking Offenses

1		1
	"Sec.	2
	"1631. Aircraft Hijacking.	3
	"1632. Commandeering a Vessel.	4
2	"§ 1631. Aircraft Hijacking	5
3	"(a) OFFENSE.—A person commits an offense if he seizes or exercises control	6
4	over an aircraft by force, threat, intimidation, or deception.	7
5	"(b) GRADING.—An offense described in this section is a Class B felony.	8
6	"(c) JURISDICTION.—There is federal jurisdiction over an offense described in	9
7	this section if—	10
8	"(1) the offense is committed within the special aircraft jurisdiction of	11
9	the United States; or	12
10	"(2) the offense is committed, by means other than deception, outside	13
11	the special aircraft jurisdiction of the United States and—	14
12	"(A) the offense is committed aboard an aircraft 'in flight', as de-	15
13	fined in section 203(c);	16
14	"(B) the place of takeoff or the place of landing of the aircraft is	17
15	situated outside the territory of the nation in which the aircraft is	18
16	registered; and	19
17	"(C) the actor is afterward found in the United States.	20
18	§ 1632. Commandeering a Vessel	21
19	"(a) OFFENSE.—A person commits an offense if he seizes or exercises control	22
20	over a vessel by force, threat, intimidation, or deception.	23
21	"(b) GRADING.—An offense described in this section is—	24
22	"(1) a Class D felony if the defendant is a member of the crew of the	25
23	vessel or the offense is committed on the high seas; and	26
24	"(2) a Class E felony in any other case.	27
25	"(c) JURISDICTION.—There is federal jurisdiction over an offense described in	28
26	this section if the offense is committed within the special maritime jurisdiction of	29
27	the United States.	30
28		31
	"Subchapter E—Sex Offenses	32
	"Sec.	33
	"1641. Rape.	34
	"1642. Sexual Assault.	35
	"1643. Sexual Abuse of a Minor.	36
	"1644. Sexual Abuse of a Ward.	37
	"1645. Unlawful Sexual Contact.	38
	"1646. General Provisions for Subchapter E.	39
29	"§ 1641. Rape	40
30	"(a) OFFENSE.—A person commits an offense if he engages in a sexual act	41
31	with another person and—	
32	"(1) compels the other person to participate in such act—	
33	"(A) by force; or	

1 “(B) by threatening or placing the other person in fear that any
2 person will imminently be subjected to death, serious bodily injury, or
3 kidnapping;

4 “(2) has, with intent to engage in a sexual act, substantially impaired
5 the ability of the other person to appraise or control conduct by adminis-
6 tering or employing a substance that he knows is a drug or intoxicant, or
7 by other means, without the knowledge or against the will of the other
8 person; or

9 “(3) the other person is, in fact, less than twelve years old.

10 “(b) GRADING.—An offense described in this section is a Class C felony.

11 “(c) JURISDICTION.—There is federal jurisdiction over an offense described in
12 this section if—

13 “(1) the offense is committed within the special jurisdiction of the
14 United States;

15 “(2) the offense is committed against a person in official detention in a
16 federal facility; or

17 “(3) the offense occurs during the commission of an offense, over which
18 federal jurisdiction exists, that is described in section 1323 (Tampering
19 With a Witness, Victim, or an Informant), 1324 (Retaliating Against a
20 Witness or an Informant), 1357 (Tampering With a Public Servant), 1358
21 (Retaliating Against a Public Servant), 1501 (Interfering With Civil
22 Rights), 1502 (Interfering With Civil Rights Under Color of Law), 1601
23 (Murder), 1602 (Manslaughter), 1611 (Maiming), 1612 (Aggravated Bat-
24 tery), 1613 (Battery), 1621 (Kidnapping), 1622 (Aggravated Criminal Re-
25 straint), 1623 (Criminal Restraint), 1631 (Aircraft Hijacking), 1644
26 (Sexual Abuse of a Ward), 1711 (Burglary), 1712 (Criminal Entry), 1721
27 (Robbery), 1722 (Extortion), 1843 (Conducting a Prostitution Business), or
28 1844 (Sexually Exploiting a Minor).

29 “§ 1642. Sexual Assault

30 “(a) OFFENSE.—A person commits an offense if he engages in a sexual act
31 with another person who is not his spouse, and—

32 “(1) knows that the other person is incapable of understanding the
33 nature of the conduct;

34 “(2) knows that the other person is physically incapable of resisting, or
35 of declining consent to, the sexual act;

36 “(3) knows that the other person is unaware that a sexual act is being
37 committed;

38 “(4) knows that the other person participates because of a mistaken
39 belief that the actor is married to the other person; or

40 “(5) compels the other person to participate by a threat or by placing
41 the other person in fear.

1 “(b) GRADING.—An offense described in this section is a Class D felony.

2 “(c) JURISDICTION.—There is federal jurisdiction over an offense described in
3 this section if the offense is committed—

4 “(1) within the special jurisdiction of the United States;

5 “(2) against a person in official detention in a federal facility;

6 “(3) in the circumstances set forth in subsection (a)(1), (a)(2), or (a)(3),
7 and occurs during the commission of an offense, over which federal juris-
8 diction exists, that is described in section 1621 (Kidnapping), 1622 (Ag-
9 gravated Criminal Restraint), 1623 (Criminal Restraint), 1644 (Sexual
10 Abuse of a Ward), 1711 (Burglary), 1712 (Criminal Entry), 1843 (Con-
11 ducting a Prostitution Business), or 1844 (Sexually Exploiting a Minor); or

12 “(4) in the circumstances set forth in subsection (a)(5), a circumstance
13 specified in section 1641(c)(2) exists or has occurred.

14 **“§1643. Sexual Abuse of a Minor**

15 “(a) OFFENSE.—A person commits an offense if he engages in a sexual act
16 with another person who is not his spouse, who in fact is less than sixteen years
17 old, and who in fact is at least three years younger than the actor.

18 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution
19 under this section that the actor believed, and had substantial reason to believe,
20 that the other person was sixteen years old or older.

21 “(c) GRADING.—An offense described in this section is—

22 “(1) a Class D felony if the actor is twenty-one years old or older; and

23 “(2) a Class A misdemeanor in any other case.

24 “(d) JURISDICTION.—There is federal jurisdiction over an offense described in
25 this section if—

26 “(1) the offense is committed within the special jurisdiction of the
27 United States; or

28 “(2) the offense occurs during the commission of an offense over which
29 federal jurisdiction exists, that is described in section 1621 (Kidnapping),
30 1622 (Aggravated Criminal Restraint), 1623 (Criminal Restraint), 1644
31 (Sexual Abuse of a Ward), 1711 (Burglary), 1712 (Criminal Entry), 1843
32 (Conducting a Prostitution Business), or 1844 (Sexually Exploiting a
33 Minor).

34 **“§1644. Sexual Abuse of a Ward**

35 “(a) OFFENSE.—A person commits an offense if he engages in a sexual act
36 with another person who is not his spouse, who is in official detention, and who is
37 under the custodial, supervisory, or disciplinary authority of the actor.

38 “(b) GRADING.—An offense described in this section is a Class A mis-
39 demeanor.

40 “(c) JURISDICTION.—There is federal jurisdiction over an offense described in
41 this section if—

1 “(1) the offense is committed within the special jurisdiction of the
2 United States;

3 “(2) the official detention is under the laws of the United States;

4 “(3) the official detention is in a federal facility; or

5 “(4) the actor is a federal public servant.

6 **“§ 1645. Unlawful Sexual Contact**

7 “(a) OFFENSE.—A person commits an offense if he engages in sexual contact
8 with another person who is not his spouse under circumstances that would consti-
9 tute an offense under section 1641, 1642, 1643, or 1644 if such contact involved
10 a sexual act.

11 “(b) GRADING.—An offense described in this section is of a class two grades
12 below that of the corresponding offense in section 1641, 1642, 1643, or 1644.

13 “(c) JURISDICTION.—There is federal jurisdiction over an offense described in
14 this section if there would be federal jurisdiction over the corresponding offense
15 described in section 1641, 1642, 1643, or 1644.

16 **“§ 1646. General Provisions for Subchapter E**

17 “(a) DEFINITIONS.—As used in this subchapter—

18 “(1) ‘sexual act’ means conduct between human beings consisting of
19 contact between the penis and the vulva, the penis and the anus, the
20 mouth and the penis, or the mouth and vulva; for purposes of this para-
21 graph, contact involving the penis occurs upon penetration, however slight;

22 “(2) ‘sexual contact’ means a touching of the sexual or other intimate
23 parts of a person to arouse or gratify the sexual desire of any person; and

24 “(3) ‘spouse’ means a person to whom the actor is legally married and
25 from whom the actor is not legally separated.

26 “(b) PROOF.—In a prosecution under sections 1641 through 1645 corrobora-
27 tion of the victim’s testimony is not required.

28 **“CHAPTER 17—OFFENSES INVOLVING PROPERTY**

“Subchapter

“A. Arson and Other Property Destruction Offenses.

“B. Burglary and Other Criminal Intrusion Offenses.

“C. Robbery, Extortion, and Blackmail.

“D. Theft and Related Offenses.

“E. Counterfeiting, Forgery, and Related Offenses.

“F. Commercial Bribery and Related Offenses.

“G. Investment, Monetary, and Antitrust Offenses.

29 **“Subchapter A—Arson and Other Property Destruction Offenses**

“Sec.

“1701. Arson.

“1702. Aggravated Property Destruction.

“1703. Property Destruction.

“1704. General Provisions for Subchapter A.

30 **“§ 1701. Arson.**

31 “(a) OFFENSE.—A person commits an offense if, by fire or explosion, he—

32 “(1) damages a public facility; or