

AMENDMENT TO H.R. 1064

OFFERED BY MR. FORBES OF VIRGINIA

At the end of the bill, add the following new title
(and amend the table of contents of the bill accordingly):

1 TITLE VIII—PENALTIES RE-
2 LATED TO CRIMINAL STREET
3 GANG ACTIVITY

4 SEC. 801. REVISION AND EXTENSION OF PENALTIES RE-
5 LATED TO CRIMINAL STREET GANG ACTIV-
6 ITY.

7 (a) IN GENERAL.—Chapter 26 of title 18, United
8 States Code, is amended to read as follows:

9 “CHAPTER 26—CRIMINAL STREET GANGS

“Sec.
“521. Criminal street gang prosecutions.

10 “§ 521. Criminal street gang prosecutions

11 “(a) STREET GANG CRIME.—Whoever commits, or
12 conspires, threatens or attempts to commit, a gang crime
13 for the purpose of furthering the activities of a criminal
14 street gang, or gaining entrance to or maintaining or in-
15 creasing position in such a gang, shall, in addition to being
16 subject to a fine under this title—

*Ruled "Not In Order" by Chairman
[Motion to Table the Appeal of the Ruling
of the Chair Agreed to by
Roll Call Vote: Ayes=16 Nays=14]*

1 “(1) if the gang crime results in the death of
2 any person, be sentenced to death or life in prison;

3 “(2) if the gang crime is kidnapping, aggra-
4 vated sexual abuse, or maiming, be imprisoned for
5 life or any term of years not less than 30;

6 “(3) if the gang crime is assault resulting in se-
7 rious bodily injury (as defined in section 1365), be
8 imprisoned for life or any term of years not less
9 than 20; and

10 “(4) in any other case, be imprisoned for life or
11 for any term of years not less than 10.

12 “(b) FORFEITURE.—

13 “(1) IN GENERAL.—The court, in imposing sen-
14 tence on any person convicted of a violation of this
15 section, shall order, in addition to any other sen-
16 tence imposed and irrespective of any provision of
17 State law, that such person shall forfeit to the
18 United States such person’s interest in—

19 “(A) any property used, or intended to be
20 used, in any manner or part, to commit, or to
21 facilitate the commission of, the violation; and

22 “(B) any property constituting, or derived
23 from, any proceeds the person obtained, directly
24 or indirectly, as a result of the violation.

1 “(2) APPLICATION OF CONTROLLED SUB-
2 STANCES ACT.—Subsections (b), (c), (e), (f), (g),
3 (h), (i), (j), (k), (l), (m), (n), (o), and (p) of section
4 413 of the Controlled Substances Act (21 U.S.C.
5 853) shall apply to a forfeiture under this section as
6 though it were a forfeiture under that section.

7 “(c) DEFINITIONS.—The following definitions apply
8 in this section:

9 “(1) CRIMINAL STREET GANG.—The term
10 ‘criminal street gang’ means a formal or informal
11 group or association of 3 or more individuals, who
12 commit 2 or more gang crimes (one of which is a
13 crime of violence other than an offense punishable
14 under subparagraphs (A), (B), or (C) of section
15 401(b)(1) of the Controlled Substances Act), in 2 or
16 more separate criminal episodes, in relation to the
17 group or association, if any of the activities of the
18 criminal street gang affects interstate or foreign
19 commerce.

20 “(2) GANG CRIME.—The term ‘gang crime’
21 means conduct constituting any Federal or State
22 crime, punishable by imprisonment for more than
23 one year, in any of the following categories:

24 “(A) A crime of violence.

1 “(B) A crime involving obstruction of jus-
2 tice, tampering with or retaliating against a
3 witness, victim, or informant, or burglary.

4 “(C) A crime involving the manufacturing,
5 importing, distributing, possessing with intent
6 to distribute, or otherwise dealing in a con-
7 trolled substance or listed chemical (as those
8 terms are defined in section 102 of the Con-
9 trolled Substances Act (21 U.S.C. 802)).

10 “(D) Any conduct punishable under sec-
11 tion 844 (relating to explosive materials), sub-
12 section (a)(1), (d), (g)(1) (where the underlying
13 conviction is a violent felony (as defined in sec-
14 tion 924(e)(2)(B) of this title) or is a serious
15 drug offense (as defined in section
16 924(e)(2)(A))), (g)(2), (g)(3), (g)(4), (g)(5),
17 (g)(8), (g)(9), (i), (j), (k), (n), (o), (p), (q), (u),
18 or (x) of section 922 (relating to unlawful acts),
19 or subsection (b), (c), (g), (h), (k), (l), (m), or
20 (n) of section 924 (relating to penalties), sec-
21 tion 930 (relating to possession of firearms and
22 dangerous weapons in Federal facilities), sec-
23 tion 931 (relating to purchase, ownership, or
24 possession of body armor by violent felons), sec-
25 tions 1028 and 1029 (relating to fraud and re-

1 lated activity in connection with identification
2 documents or access devices), section 1952 (re-
3 lating to interstate and foreign travel or trans-
4 portation in aid of racketeering enterprises),
5 section 1956 (relating to the laundering of
6 monetary instruments), section 1957 (relating
7 to engaging in monetary transactions in prop-
8 erty derived from specified unlawful activity), or
9 sections 2312 through 2315 (relating to inter-
10 state transportation of stolen motor vehicles or
11 stolen property).

12 “(E) Any conduct punishable under section
13 274 (relating to bringing in and harboring cer-
14 tain aliens), section 277 (relating to aiding or
15 assisting certain aliens to enter the United
16 States), or section 278 (relating to importation
17 of alien for immoral purpose) of the Immigra-
18 tion and Nationality Act.

19 “(3) AGGRAVATED SEXUAL ABUSE.—The term
20 ‘aggravated sexual abuse’ means an offense that, if
21 committed in the special maritime and territorial ju-
22 risdiction would be an offense under section 2241(a).

23 “(4) STATE.—The term ‘State’ means each of
24 the several States of the United States, the District

1 of Columbia, and any commonwealth, territory, or
2 possession of the United States.”.

3 (b) AMENDMENT RELATING TO PRIORITY OF FOR-
4 FEITURE OVER ORDERS FOR RESTITUTION.—Section
5 3663(c)(4) of title 18, United States Code, is amended
6 by striking “chapter 46 or chapter 96 of this title” and
7 inserting “section 521, under chapter 46 or 96,”.

8 (c) MONEY LAUNDERING.—Section 1956(c)(7)(D) of
9 title 18, United States Code, is amended by inserting “,
10 section 521 (relating to criminal street gang prosecu-
11 tions)” before “, section 541”.

