

## STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 1508, the National Children's Island Act. This bill authorizes the transfer of Federal land to the District of Columbia for the development of a cultural, educational, family-oriented recreation park and a children's playground on two man-made islands in the District of Columbia's Anacostia River. The two islands in question, Kingman and Heritage, were created in 1916 by the Army Corps of Engineers from dredge material in the Anacostia. This project has the potential of bringing much needed development to the area, providing recreational space for children and families, and reclaiming vacant land that, at the present, is in very poor condition.

At the same time, I am strongly committed to making sure that any development on these islands proceeds in an environmentally sound and sensitive manner. Under this legislation, all development plans for Children's Island -- whether for the recreation park, playground, related structures, bridges or roads -- must be reviewed and approved by both the District of Columbia and the National Capital Planning Commission (NCPC). I will be looking to the NCPC as the Federal watchdog to make sure that all development plans are consistent with the preservation of the natural and cultural resources on the site and in the vicinity. To this end, I have today issued a memorandum to the Chair of the NCPC setting forth the principles that should guide the NCPC in its review of plans for the development of Children's Island.

In particular, I have asked the NCPC to take a careful look at the project to make sure that both environmental safeguards -- including those contained in the original plan approved by the NCPC and the National Park Service -- and recreational needs are met. In this regard, the NCPC must ensure that the level of development chosen be appropriate to the area with due regard to the surrounding neighborhoods, the ecosystem management initiatives for the Anacostia River,

and preservation of the integrity of the nearby parkland. Moreover, the NCPC must ensure that development plans are consistent with the principles of environmental justice contained in Executive Order No. 12898 of February 11, 1994. Further, the National Park Service, as an adjacent landowner, should fully participate in the NCPC process.

In addition, I stated to the NCPC that, in conducting its review, the NCPC should be certain that the requirements of the National Environmental Policy Act be met. The NCPC should carefully consider all alternatives, including the no action alternative of not moving forward if adverse impacts are identified that are severe and unavoidable.

I also asked the NCPC to afford the public maximum opportunity for comment. This will allow the proposed planning process to reflect the full range of views about development of the islands.

Further, I am directing the Secretary of the Interior, Secretary of Defense, and Administrator of General Services -- all of whom are represented on the NCPC -- to ensure that the NCPC's review of this project emphasize children's recreation and education, the protection and restoration of the Anacostia watershed, and the public interest of the adjacent neighborhoods.

Should the development plans for Children's Island ultimately not pass muster with the NCPC or the District of Columbia, so that the park is not built, the Act provides that the islands will revert back to the National Park Service.

It is my expectation that this legislation will promote the development of these islands in a manner that will serve the economic and recreational needs of the District of Columbia while at the same time preserving our important natural and cultural resources.

*William D. Clinton*

THE WHITE HOUSE,

July 19, 1996.

STATEMENT BY THE PRESIDENT

I have today signed into law S. 735, the "Antiterrorism and Effective Death Penalty Act of 1996." This legislation is an important step forward in the Federal Government's continuing efforts to combat terrorism.

I first transmitted antiterrorism legislation to the Congress in February 1995. Most of the proposals in that legislation, the "Omnibus Counterterrorism Act of 1995," were aimed at fighting international terrorism. After the tragedy in Oklahoma City, I asked Federal law enforcement agencies to reassess their needs and determine which tools would help them meet the new challenge of domestic terrorism. They produced, and I transmitted to the Congress, the "Antiterrorism Amendments Act of 1995" in May 1995.

Together, these two proposals took a comprehensive approach to fighting terrorism both at home and abroad. I am pleased that the Congress included most of the provisions of these proposals in this legislation. As a result, our law enforcement officials will have tough new tools to stop terrorists before they strike and to bring them to justice if they do. In particular, this legislation will:

- provide broad new Federal jurisdiction to prosecute anyone who commits a terrorist attack in the United States or who uses the United States as a planning ground for attacks overseas;
- ban fundraising in the United States that supports terrorist organizations;
- allow U.S. officials to deport terrorists from American soil without being compelled by the terrorists to divulge classified information, and to bar terrorists from entering the United States in the first place;
- require plastic explosives to contain chemical markers so that criminals who use them -- like the ones that blew up Pan Am Flight 103 -- can be tracked down and prosecuted;
- enable the Government to issue regulations requiring that chemical taggants be added to some other types of

explosives so that police can better trace bombs to the criminals who make them;

- increase our controls over biological and chemical weapons;
- toughen penalties over a range of terrorist crimes;
- ban the sale of defense goods and services to countries that I determine are not "cooperating fully" with U.S. antiterrorism efforts. Such a determination will require a review of a country's overall level of cooperation in our efforts to fight terrorism, taking into account our counterterrorism objectives with that country and a realistic assessment of its capabilities.

By enacting this legislation, the United States remains in the forefront of the international effort to fight terrorism through tougher laws and resolute enforcement.

Nevertheless, as strong as this bill is, it should have been stronger. For example, I asked the Congress to give U.S. law enforcement increased wiretap authority in terrorism cases, including the power to seek multi-point wiretaps, enabling police to follow a suspected terrorist from phone to phone, and authority for the kind of emergency wiretaps available in organized crime cases. But the Congress refused.

After I proposed that the Secretary of the Treasury consider the inclusion of taggants in explosive materials, so that bombs can be traced more easily to the bomb makers, the Congress exempted black and smokeless powder -- two of the most commonly used substances in improvised explosive devices.

I asked that law enforcement be given increased access to hotel, phone and other records in terrorism cases. I asked for a mandatory penalty for those who knowingly transfer a firearm for use in a violent felony. I asked for a longer statute of limitations to allow law enforcement more time to prosecute terrorists who use weapons such as machine guns, sawed-off shotguns, and explosive devices. But the Congress stripped each of these provisions out of the bill. And when I asked for a ban on cop-killer bullets, the Congress delivered only a study,

which will delay real action to protect our Nation's police officers.

I intend to keep urging the Congress to give our law enforcement officials all the tools they need and deserve to carry on the fight against international and domestic terrorism. This is no time to give the criminals a break.

There are three other portions of this bill that warrant comment. First, I have long sought to streamline Federal appeals for convicted criminals sentenced to the death penalty. For too long, and in too many cases, endless death row appeals have stood in the way of justice being served. Some have expressed the concern that two provisions of this important bill could be interpreted in a manner that would undercut meaningful Federal habeas corpus review. I have signed this bill because I am confident that the Federal courts will interpret these provisions to preserve independent review of Federal legal claims and the bedrock constitutional principle of an independent judiciary.

Section 104(3) provides that a Federal district court may not issue a writ of habeas corpus with respect to any claim adjudicated on the merits in State court unless the decision reached was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court. Some have suggested that this provision will limit the authority of the Federal courts to bring their own independent judgment to bear on questions of law and mixed questions of law and fact that come before them on habeas corpus.

In the great 1803 case of Marbury v. Madison, Chief Justice John Marshall explained for the Supreme Court that "[i]t is emphatically the province and duty of the judicial department to say what the law is." Section 104(3) would be subject to serious constitutional challenge if it were read to preclude the Federal courts from making an independent determination about

"what the law is" in cases within their jurisdiction. I expect that the courts, following their usual practice of construing ambiguous statutes to avoid constitutional problems, will read section 104 to permit independent Federal court review of constitutional claims based on the Supreme Court's interpretation of the Constitution and Federal laws.

Section 104(4) limits evidentiary hearings in Federal habeas corpus cases when "the applicant has failed to develop the factual basis of a claim in State court proceedings." If this provision were read to deny litigants a meaningful opportunity to prove the facts necessary to vindicate Federal rights, it would raise serious constitutional questions. I do not read it that way. The provision applies to situations in which "the applicant has failed to develop the factual basis" of his or her claim. Therefore, section 104(4) is not triggered when some factor that is not fairly attributable to the applicant prevented evidence from being developed in State court.

Preserving the Federal courts' authority to hear evidence and decide questions of law has implications that go far beyond the issue of prisoners' rights. Our constitutional ideal of a limited government that must respect individual freedom has been a practical reality because independent Federal courts have the power "to say what the law is" and to apply the law to the cases before them. I have signed this bill on the understanding that the courts can and will interpret these provisions of section 104 in accordance with this ideal.

This bill also makes a number of major, ill-advised changes in our immigration laws having nothing to do with fighting terrorism. These provisions eliminate most remedial relief for long-term legal residents and restrict a key protection for battered spouses and children. The provisions will produce extraordinary administrative burdens on the Immigration and Naturalization Service. The Administration will urge the Congress to correct them in the pending immigration reform legislation.

I also regret that the Congress included in this legislation a commission to study Federal law enforcement that was inspired by special interests who are no friends of our Nation's law enforcement officers. The Congress has responsibility to oversee the operation of Federal law enforcement; to cede this power to an unelected and unaccountable commission is a mistake. Our Nation's resources would be better spent supporting the men and women in law enforcement, not creating a commission that will only get in their way.

I hope that there will be an opportunity to revisit these and other issues, as well as some of the other proposals this Administration has made, but upon which the Congress refused to act.

This legislation is a real step in the right direction. Although it does not contain everything we need to combat terrorism, it provides valuable tools for stopping and punishing terrorists. It stands as a tribute to the victims of terrorism and to the men and women in law enforcement who dedicate their lives to protecting all of us from the scourge of terrorist activity.

THE WHITE HOUSE,

April 24, 1996.

## STATEMENT BY THE PRESIDENT

Today I have signed into law S. 1124, the "National Defense Authorization Act for Fiscal Year 1996." This Act authorizes appropriations for Department of Defense military activities, including military construction, and defense activities of the Department of Energy. It also provides, extends, or amends various authorities relating to national defense programs and activities.

I vetoed the original version of this legislation, H.R. 1530, on December 28, 1995. Since that time, the Congress has addressed my three central national security concerns about the earlier bill. First, the Congress deleted the provisions requiring deployment by 2003 of a costly missile defense system designed to defend against a long-range missile threat, which our intelligence community does not foresee in the next decade. Such a course of action would have prevented us from deploying the best possible technology if a real threat were to emerge at a later time. Moreover, implementation of the system called for in H.R. 1530 would probably have been inconsistent with the Anti-Ballistic Missile Treaty.

Second, the Congress deleted the requirement that the President submit a supplemental appropriations request within a defined time period after commencement of certain contingency and other operations, such as the ongoing military operations in Bosnia. The Act does, however, continue to contain unwarranted restrictions on the manner in which such operations may be funded.

Third, the Congress deleted the restriction on the President's authority to make and implement decisions relating to the operational or tactical control of elements of the U.S. armed forces, a restriction which clearly infringed on the President's constitutional authority as Commander in Chief.

The Act also includes a number of provisions of great importance to our national defense and to the men and women in our armed forces, authorizing critical defense programs to be continued and new ones to be initiated. The Act authorizes the full 2.4% increase in pay and allowances for our military personnel. It authorizes the Military Housing Privatization Initiative, which provides new authority to acquire and improve military housing and supporting facilities through the use of private expertise and capital. It authorizes necessary military construction and NATO infrastructure programs. It continues the Department of Energy's science-based Stockpile Stewardship program. It provides for the sale of the Elk Hills Naval Petroleum Reserve.

The Act also contains the Administration's proposal to allow the United States to extradite indicted war criminals and provide evidence directly to the International War Crimes Tribunals for the Former Yugoslavia and Rwanda -- a provision that should encourage others to cooperate fully with the War Crimes Tribunal.

And, this legislation makes important strides in the area of procurement reform, which will help produce a better-equipped military for less money. The legislation gives agencies enhanced authority and flexibility in their use of computers and telecommunications, while insisting on accountability. Consistent with the Administration's efforts under the National Performance Review to create a government that works better and costs less, the Act encourages agencies to adopt the best practices of successful companies in the private sector. And the Act includes measures to facilitate the purchase of commercially-available goods and services, to streamline and clarify procurement integrity laws, and to substantially improve the process for resolving bid protests for information technology.

All of these measures are important to the effective and efficient operation of our armed forces. I regret, however, that this legislation continues to contain a number of provisions, identified in my earlier veto message, that will adversely affect the Defense Department's ability to carry out its national defense mission.

First, I am strongly opposed, as is the Department of Defense, to the provision requiring the discharge of military personnel living with the Human Immunodeficiency Virus (HIV), where such discharge is not required by any medical, public health, or military purpose. This provision is blatantly discriminatory and highly punitive to service members and their families. People living with HIV can and do lead full and productive lives, provide for their families, and contribute to the well-being of our Nation. The men and women affected by this provision are ready, willing and able to serve their country with honor and should be allowed to continue to do so.

Therefore, I strongly support the current efforts in the Congress to repeal this provision before a single service member is discharged from the armed forces.

Moreover, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff have advised me that the arbitrary discharge of these men and women would be both unwarranted and unwise; that such discharge is unnecessary as a matter of sound military policy; and that discharging service members deemed fit for duty would waste the Government's investment in the training of these people and would be disruptive to the military programs in which they play an integral role.

I agree.

Consequently, I have concluded that this discriminatory provision is unconstitutional. Specifically, it violates equal protection by requiring the discharge of qualified service members living with HIV who are medically able to serve, without

furthering any legitimate governmental purpose. As President Franklin D. Roosevelt said in 1943, explaining his decision to sign an important appropriations bill notwithstanding the fact that it contained a provision that infringed upon individual rights, "I cannot . . . yield without placing on record my view that this provision is not only unwise and discriminatory, but unconstitutional."

In accordance with my constitutional determination, the Attorney General will decline to defend this provision. Instead, the Attorney General will inform the House and Senate of this determination so that they may, if they wish, present to the courts their argument that the provision should be sustained.

Further, to mitigate any unfair burden that this legislation could place on these service members and their families pending any repeal or judicial invalidation, I have directed the Secretaries of Defense, Veterans Affairs, and Transportation, in carrying out the provisions of this Act, to take all steps necessary to ensure that these service members receive the full benefits to which they are entitled -- including, among other things, disability retirement pay, health care coverage for their families and transition benefits such as vocational education.

I am troubled by another provision in this Act, which restricts the ability of service women and military dependents to obtain privately-funded abortions in military facilities overseas. I remain firmly opposed to this provision. In many countries, these U.S. facilities provide the only accessible safe source for these medical services. I will support congressional efforts to repeal this and a similar provision that became law in the "Department of Defense Appropriations Act, 1996."

Finally, I note that section 1404 of the Act expresses the sense of the Congress that the Secretary of Defense should not take any steps toward dismantling or retiring specific strategic nuclear delivery systems until the START II Treaty enters into force, and it prohibits obligating or expending funds in fiscal year 1996 for such steps. Reading the provisions of section 1404 together, I interpret the section to prohibit obligations or expenditures only before the START II Treaty enters into force. The explanation of Section 1404 in the conference report supports this interpretation.

William J. Clinton

THE WHITE HOUSE,

February 10, 1996.