

SUMMARY OF THE PRISON RAPE ELIMINATION ACT OF 2003 (PREA)

The Act supports the elimination, reduction and prevention of sexual assault and rape within corrections systems; mandates national data collection efforts; provides funding for program development and research; creates a national commission to develop standards and accountability measures; applies to all federal, state and local prisons, jails, police lock-ups, private facilities and community settings such as residential facilities.

(Sec. 2) Describes a variety of research findings and data (i.e., problems of under-reporting complicates estimates of prevalence, relationship between rape and communicable diseases, etc.) and discusses the impact of rape and prison sexual assault on public safety, public health and institutional violence.

(Sec. 3) Establishes a **zero-tolerance standard** for the incidence of inmate sexual assault and rape; makes prevention of inmate sexual assault and rape a top priority in each corrections facility; develops/implements national standards for the detection, prevention, and punishment of prison rape; increase available data and information of the incidence of inmate sexual assault and rape; standardized the definitions used for data collection; increase accountability of corrections officials who fail to detect, prevent, reduce and punish prison rape; and protect the Eight Amendment rights of federal, state and local inmates.

(Sec. 4) Directs the **Bureau of Justice Statistics** to carry out, annually, a comprehensive statistical review and analysis of the incidence and effects of prison rape. Requires: (1) the review and analysis to be based on a sample of not less than ten percent of all Federal, State, and county prisons, and a representative sample of municipal prisons, that includes at least one prison from each State; and (2) Federal, State, or local officials or facility administrators that receive a request from the Bureau to participate in the national survey and provide access to any inmates under their legal custody.

Establishes within the **Department of Justice the Review Panel on Prison Rape** to carry out, for each calendar year, public hearings concerning the operation of the three prisons with the highest incidence of prison rape and the two prisons with the lowest incidence in each category of facilities identified. Declares that the purpose of these hearings shall be to collect evidence to aid in the identification of common characteristics of: (1) victims and perpetrators of prison rape; (2) prisons and prison systems with a high incidence of prison rape; and (3) prisons and prison systems that appear to have been successful in deterring prison rape.

Requires the Attorney General to submit an annual report to Congress and the Secretary of Health and Human Services on Bureau and Panel activities regarding prison rape. Authorizes appropriations for FY 2004 through 2010.

(Sec. 5) Establishes within the **National Institute of Corrections (NIC)** a national clearinghouse for the provision of information, assistance, and training to Federal, State, and local authorities for the prevention, investigation, and punishment of prison rape.

(Sec. 6) Directs the **Attorney General to make grants to assist States** in ensuring that budgetary circumstances do not compromise efforts to protect inmates and to safeguard the communities to which inmates return. Authorizes appropriations for FY 2004 through 2010, with a limitation.

(Sec. 7) Establishes the **National Prison Rape Elimination Commission** to: (1) study the impact of prison rape on Federal, State, and local governments and on communities and social institutions; and (2) report recommended national standards for enhancing the detection, prevention, reduction, and punishment of prison rape.

(Sec. 8) Directs the Attorney General, within one year after receiving such report, to publish a final rule **adopting national standards**. Provides for a five percent reduction of any amount of grant funds for prisons that a State would otherwise receive for a fiscal year, unless the chief executive of the State submits to the Attorney General: (1) a certification that the State has adopted, and is in full compliance with, the national standards; or (2) an assurance that not less than five percent of such amount shall be used only to enable the State to adopt and achieve full compliance with such standards, so as to ensure that such certification may be submitted in future years. Requires the Attorney General to publish an annual report listing each grantee that is not in compliance with the standards.

(Sec. 9) Prohibits the receipt of Federal grants by penal facility accreditation organizations that fail to adopt accreditation standards for the detection, prevention, reduction, and punishment of prison rape.

(Sec. 10) **Defines sexual assault and rape** to include: (a) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will; (b) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or © the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

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