

114TH CONGRESS  
1ST SESSION

# H. R. 2944

To improve public safety, accountability, transparency, and respect for federalism in Federal criminal law by applying the findings of the bipartisan Over-Criminalization Task Force and evidence-based reforms already made by some States, and reinvesting the resulting savings from doing so in additional evidence-based criminal justice strategies that are proven to reduce recidivism and crime, and the burden of the criminal justice system on the taxpayer.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2015

Mr. SENSENBRENNER (for himself, Mr. SCOTT of Virginia, Mr. LABRADOR, Mr. CUMMINGS, Mr. FARENTHOLD, Ms. LOFGREN, Mr. COLLINS of Georgia, Mr. COHEN, Mr. BISHOP of Michigan, Mr. JOHNSON of Georgia, Mrs. LOVE, Ms. JUDY CHU of California, Mr. BARTON, Mr. GUTIÉRREZ, Mr. YOHO, Ms. BASS, Mr. YOUNG of Alaska, Mr. RICHMOND, Mr. RIGELL, Mr. JEFFRIES, Mr. MCCLINTOCK, and Mr. CÁRDENAS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve public safety, accountability, transparency, and respect for federalism in Federal criminal law by applying the findings of the bipartisan Over-Criminalization Task Force and evidence-based reforms already made by some States, and reinvesting the resulting savings from doing so in additional evidence-based criminal justice strategies that are proven to reduce recidivism and

crime, and the burden of the criminal justice system on the taxpayer.

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

3 **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Sensenbrenner-Scott  
 5 Over-Criminalization Task Force Safe, Accountable, Fair,  
 6 Effective Justice Reinvestment Act of 2015” or the “Sen-  
 7 senbrenner-Scott SAFE Justice Reinvestment Act of  
 8 2015”.

9 **SEC. 2. TABLE OF CONTENTS.**

10        The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—IDENTIFYING AND REDUCING OVER-FEDERALIZATION  
 AND OVER-CRIMINALIZATION BY RESPECTING THE BALANCE  
 OF POWERS AMONG THE STATES AND THE FEDERAL GOVERN-  
 MENT**

Sec. 101. Compilation and publication of criminal offenses to provide fair notice to address over-federalization.

Sec. 102. Procedures to reduce over-federalization.

Sec. 103. Procedures to reduce pretrial detention.

Sec. 104. Creation of a citizen complaint process.

Sec. 105. Exclusion of acquitted conduct and discretion to disregard manipulated conduct from consideration during sentencing.

Sec. 106. Focusing Federal criminal penalties for simple possession to places of special Federal interest in recognition of the balance of power between the Federal Government and the States.

**TITLE II—ADDRESSING INFORMATION DISPARITY AND ACCURACY  
 IN CRIMINAL PROSECUTIONS TO PROTECT INNOCENCE MORE  
 ROBUSTLY AND TO REDUCE THE NUMBER OF WRONGFUL  
 CONVICTIONS**

Sec. 201. Findings and declarations.

Sec. 202. Reauthorization of the Innocence Protection Act of 2004.

Sec. 203. Accuracy and reliability of evidence in criminal cases; addressing information disparity in criminal cases.

Sec. 205. Notification relating to forensic, prosecutorial, or law enforcement misconduct.

- Sec. 206. Remedies.  
 Sec. 207. Toolkits for State and local government.

TITLE III—ENCOURAGING ACCOUNTABILITY WITH GREATER USE  
 OF EVIDENCE-BASED SENTENCING ALTERNATIVES FOR  
 LOWER-LEVEL OFFENDERS

- Sec. 301. Eligibility for prejudgement probation.  
 Sec. 302. Sentence of probation.  
 Sec. 303. Directive to the Sentencing Commission regarding use of probation.  
 Sec. 304. Establishing accountability evidence-based problem solving court programs.

TITLE IV—CONCENTRATING PRISON SPACE ON VIOLENT AND  
 CAREER CRIMINALS

Subtitle A—Restoring Original Congressional Intent To Focus Federal Drug  
 Mandatory Minimums Only on Managers, Supervisors, Organizers, and  
 Leaders of Drug Trafficking Organizations and To Avoid Duplicative Prosecution  
 With States

- Sec. 401. Focusing the application of Federal mandatory minimums for certain  
 drug offenses to restore original congressional intent respecting  
 the balance of power between the Federal Government and the  
 States.  
 Sec. 402. Modification of criteria for “safety valve” limitation on applicability  
 of certain mandatory minimums.  
 Sec. 403. Consistency in the use of prior convictions for mandatory sentencing  
 enhancements.  
 Sec. 404. Clarification of applicability of the Fair Sentencing Act.  
 Sec. 405. Eligibility for resentencing based on changes in law.  
 Sec. 406. Directives to the Sentencing Commission.

Subtitle B—Expanding the Ability To Apply for Compassionate Release

- Sec. 411. Ability to petition for release to extended supervision for certain prisoners  
 who are medically incapacitated, geriatric, or caregiver  
 parents of minor children and who do not pose public safety  
 risks.

Subtitle C—Clarification of Congressional Intent on Certain Recidivist  
 Penalties

- Sec. 421. Amendments to enhanced penalties provision.

TITLE V—IMPLEMENTING EVIDENCE-BASED PRACTICES TO  
 REDUCE RECIDIVISM

Subtitle A—Revision of Statutory Sentence Credits

- Sec. 501. Delivery and incentives to complete in-prison recidivism reduction  
 programming.  
 Sec. 502. Postsentencing risk and needs assessment system and in-prison re-  
 cidivism reduction programming.

Subtitle B—Training and Oversight of Mental Health and Substance Abuse  
 Treatment

- Sec. 511. Mental health and de-escalation training.
- Sec. 512. Authorizing grants to States for the use of medication-assisted treatment for heroin, opioid, or alcohol abuse in residential substance abuse treatment.
- Sec. 513. Performance-based contracting for residential reentry centers.

Subtitle C—Implementing Swift, Certain, and Proportionate Sanctions for Violations of Conditions of Probation or Supervised Release

- Sec. 521. Graduated sanctioning system.
- Sec. 522. Graduated responses to technical violations of supervision.
- Sec. 523. Targeted and proportional penalties for revocation of probation.
- Sec. 524. Targeted and proportional penalties for violations of supervised release.

Subtitle D—Focus Supervision Resources on High-Risk Offenders

- Sec. 531. Earned discharge credits for compliant supervisees.
- Sec. 532. Elimination of mandatory revocation for minor drug violations.

Subtitle E—Creating a Performance-Incentive Funding Program

- Sec. 541. Calculation of savings.
- Sec. 542. Distribution of performance incentive funding.
- Sec. 543. Use of performance incentive funding.
- Sec. 544. Definitions.

Subtitle F—Maximizing Public Safety Returns on Corrections Dollars

- Sec. 551. Clarification or original congressional intent regarding calculation of good time conduct credit.
- Sec. 552. Analysis of fiscal implications for inclusion in presentence reports.
- Sec. 553. Investing in and supporting SAFE law enforcement.

TITLE VI—PREVENTION AND INTERVENTION INITIATIVES  
INCREASING GOVERNMENT TRANSPARENCY ACCURACY

- Sec. 601. Report on mandatory minimums.
- Sec. 602. Federal defender added as a nonvoting member of the Sentencing Commission.
- Sec. 603. Budget and inmate population impact of legislation on the Federal corrections system.
- Sec. 604. Reports.

1 **TITLE I—IDENTIFYING AND RE-**  
2 **DUCING OVER-FEDERALIZA-**  
3 **TION AND OVER-CRIMINAL-**  
4 **IZATION BY RESPECTING THE**  
5 **BALANCE OF POWERS AMONG**  
6 **THE STATES AND THE FED-**  
7 **ERAL GOVERNMENT**

8 **SEC. 101. COMPILATION AND PUBLICATION OF CRIMINAL**  
9 **OFFENSES TO PROVIDE FAIR NOTICE TO AD-**  
10 **DRESS OVER-FEDERALIZATION.**

11 (a) COMPILATION AND PUBLICATION OF CRIMINAL  
12 OFFENSES.—Not later than January 1, 2016, and every  
13 year thereafter, the Attorney General shall, in consultation  
14 with relevant entities within the executive branch, compile  
15 a listing of the various Federal law violations that carry  
16 criminal penalties. To ensure that individuals have fair no-  
17 tice of prohibited conduct and the criminal penalties they  
18 bring, the Attorney General shall publicize the existence  
19 of this database and publish the database on the Depart-  
20 ment of Justice website.

21 (b) OVERSIGHT TO ADDRESS OVER-FEDERALIZA-  
22 TION.—Each executive branch agency must obtain the ex-  
23 press prior approval of the Attorney General for each  
24 added criminal penalty resulting from agency regulation.  
25 The Attorney General shall condition that approval on a

1 sunsetting of the added criminal penalty not later than  
2 5 years after it takes effect.

3 **SEC. 102. PROCEDURES TO REDUCE OVER-FEDERALIZA-**  
4 **TION.**

5 (a) IN GENERAL.—Not later than 180 days after the  
6 date of the enactment of this Act, the Attorney General  
7 shall create and implement procedures—

8 (1) to provide coordination by Federal prosecu-  
9 tors and law enforcement agencies with other Fed-  
10 eral agencies to determine—

11 (A) whether unlawful conduct that involves  
12 the administrative competencies of other Fed-  
13 eral agencies is best addressed by civil sanctions  
14 or criminal charges; and

15 (B) if such conduct is best addressed by  
16 criminal charges, whether diversion or criminal  
17 prosecution is more appropriate; and

18 (2) to provide coordination by Federal prosecu-  
19 tors and law enforcement agencies with State pros-  
20 ecutors and law enforcement agencies to reduce du-  
21 plicative prosecutions of the same offender for the  
22 same conduct at both State and Federal levels.

23 (b) REPORT BY INSPECTOR GENERAL.—Not later  
24 than 1 year after the date of the enactment of this Act,  
25 the Inspector General of the Department of Justice shall

1 report to the Congress, for the period beginning on the  
2 date of the enactment of this Act and ending as closely  
3 as feasible to the date on which the report is made, on—

4 (1) the number of cases referred from law en-  
5 forcement or other agencies for Federal prosecution  
6 in which the alleged unlawful conduct—

7 (A) involved the administrative com-  
8 petencies of Federal agencies other than the  
9 Department of Justice that could have been  
10 handled civilly by a Federal agency; or

11 (B) could have, in the judgment of the At-  
12 torney General, been prosecuted at the State  
13 level;

14 (2) the number of cases accepted for Federal  
15 prosecution, and the estimated Federal correctional  
16 costs of those cases in prison bed-years; and

17 (3) the number of cases declined for Federal  
18 prosecution after referral by law enforcement or  
19 other agencies and the estimated Federal correc-  
20 tional savings in prison bed-years.

21 **SEC. 103. PROCEDURES TO REDUCE PRETRIAL DETENTION.**

22 (a) GUIDANCE BY ATTORNEY GENERAL.—Not later  
23 than 180 days after the date of the enactment of this Act,  
24 the Attorney General, in consultation with the Criminal  
25 Law Committee of the Judicial Conference of the United

1 States, the United States Probation and Pretrial Services,  
2 and a Federal public or community defender from the De-  
3 fender Services Advisory Group, shall create and imple-  
4 ment procedures to reduce overincarceration due to pre-  
5 trial detention in order to—

6 (1) reduce overcrowding of pretrial detention  
7 facilities; and

8 (2) reduce the cost of pretrial detention.

9 (b) CONSIDERATIONS TO BE TAKEN INTO ACCOUNT  
10 IN CREATING PROCEDURES.—In carrying out subsection

11 (a), the Attorney General shall take into consideration—

12 (1) whether in Federal cases a summons in-  
13 stead of an arrest should be the default procedure;

14 (2) whether in some or most cases where a  
15 summons would not be sufficient, a bond or other al-  
16 ternative would be preferable to pretrial detention;

17 (3) the need to avoid seeking bonds that offend-  
18 ers are unable to meet, which are then tantamount  
19 for pretrial detention;

20 (4) the extent to which pretrial detention re-  
21 sults from the disproportionate pretrial detention of  
22 individuals with fewer economic means;

23 (5) the impact of pretrial detention on loss of  
24 employment and housing; and



1           (6) the need to avoid pretrial detention that is  
2           not necessary to ensure the appearance of the de-  
3           fendant as required and the safety of the public.

4           (c) REPORT BY INSPECTOR GENERAL.—Not later  
5 than 1 year after the date of the enactment of this Act,  
6 the Inspector General of the Department of Justice shall  
7 report to the Congress on the procedures created under  
8 this section, and address whether and to what extent those  
9 procedures are likely to accomplish their intended pur-  
10 poses. In the report, the Inspector General may include  
11 recommendations for further changes in procedures that  
12 would better accomplish the purposes set forth in sub-  
13 section (a), taking into account the considerations de-  
14 scribed in subsection (b).

15 **SEC. 104. CREATION OF A CITIZEN COMPLAINT PROCESS.**

16           (a) IN GENERAL.—The Attorney General shall, not  
17 later than 180 days after the date of the enactment of  
18 this Act, create a confidential and secure online complaint  
19 process to the Office of Professional Responsibility for the  
20 Department of Justice, for the use of defendants who have  
21 been sentenced who believe that their prosecutions were  
22 mishandled by Federal prosecutors or law enforcement of-  
23 ficers. The Attorney General shall publicize the availability  
24 of this resource.

1 (b) ANNUAL REVIEW AND REPORTS.—Taking into  
2 account the remedies provided in section 206, the Office  
3 of the Inspector General, shall—

4 (1) conduct an annual review of the citizen  
5 complaint process to determine whether the Office of  
6 Professional Responsibility has taken appropriate  
7 disciplinary measures against prosecutors who have  
8 mishandled cases or engaged in misconduct; and

9 (2) publish in a report to Congress each case in  
10 which any judge or court has found that a pros-  
11 ecutor or law enforcement officer engaged in mis-  
12 conduct, whether such a finding resulted in reversal,  
13 vitiating, or vacatur of a conviction or sentence.

14 **SEC. 105. EXCLUSION OF ACQUITTED CONDUCT AND DIS-**  
15 **CRETION TO DISREGARD MANIPULATED CON-**  
16 **DUCT FROM CONSIDERATION DURING SEN-**  
17 **TENCING.**

18 (a) ACQUITTED CONDUCT NOT TO BE CONSIDERED  
19 IN SENTENCING.—Section 3661 of title 18, United States  
20 Code, is amended by striking the period at the end and  
21 inserting “, except that a court shall not consider conduct  
22 of which a person has been acquitted.”.

23 (b) PROVIDING DISCRETION TO DISREGARD CER-  
24 TAIN FACTORS IN SENTENCING.—

1           (1) TITLE 18, UNITED STATES CODE.—Section  
2           3553 of title 18, United States Code, is amended by  
3           adding at the end the following:

4           “(g) DISCRETION TO DISREGARD CERTAIN FAC-  
5           TORS.—A court, in sentencing a defendant convicted  
6           under the Controlled Substances Act, the Controlled Sub-  
7           stances Import and Export Act, any offense deriving its  
8           penalties from either such Act, or an offense under section  
9           924(c) based on a drug trafficking crime, may disregard,  
10          in determining the statutory range, calculating the guide-  
11          line range or considering the factors set forth in section  
12          3553(a), any type or quantity of a controlled substance,  
13          counterfeit substance, firearm or ammunition that was de-  
14          termined by a confidential informant, cooperating witness,  
15          or law enforcement officer who solicited the defendant to  
16          participate in a reverse sting or fictitious stash-house rob-  
17          bery.”.

18          (2) CONTROLLED SUBSTANCES ACT.—Section  
19          401(b)(1) of the Controlled Substances Act (21  
20          U.S.C. 841(b)(1)) is amended by adding at the end  
21          the following:

22          “(F) In the case of a person who conspires to commit  
23          an offense under this title, the type and quantity of the  
24          controlled or counterfeit substance for the offense that was

1 the object of the conspiracy shall be the type and quantity  
2 involved in—

3 “(i) the defendant’s own unlawful acts; and

4 “(ii) any unlawful act of a co-conspirator  
5 that—

6 “(I) the defendant agreed to jointly under-  
7 take;

8 “(II) was in furtherance of that unlawful  
9 act the defendant agreed to jointly undertake;  
10 and

11 “(III) was intended by the defendant.”.

12 (3) CONTROLLED SUBSTANCES IMPORT AND  
13 EXPORT ACT.—Section 1010(b) of the Controlled  
14 Substances Import and Export Act (21 U.S.C.  
15 960(b)) is amended by adding at the end the fol-  
16 lowing:

17 “(8) In the case of a person who conspires to commit  
18 an offense under this title, the type and quantity of the  
19 controlled or counterfeit substance for the offense that was  
20 the object of the conspiracy shall be the type and quantity  
21 involved in—

22 “(A) the defendant’s own unlawful acts; and

23 “(B) any unlawful act of a co-conspirator  
24 that—

1           “(i) the defendant agreed to jointly under-  
2           take;

3           “(ii) was in furtherance of that unlawful  
4           act the defendant agreed to jointly undertake;  
5           and

6           “(iii) was intended by the defendant.”.

7           (4) DIRECTIVE TO THE SENTENCING COMMIS-  
8           SION.—Pursuant to its authority under section  
9           994(p) of title 28, United States Code, and in ac-  
10          cordance with this section, the United States Sen-  
11          tencing Commission shall review and amend its  
12          guidelines and policy statements applicable to rel-  
13          evant conduct to ensure that they are consistent  
14          with the amendments made by this section.

15          (5) DEFINITIONS.—The following definitions  
16          apply in this section:

17                (A) REVERSE STING.—The term “reverse  
18                sting” means a situation in which a person who  
19                is a law enforcement officer or is acting on be-  
20                half of law enforcement initiates a transaction  
21                in which the person offers to sell a controlled  
22                substance, counterfeit substance, firearms or  
23                ammunition to a targeted individual.

24                (B) STASH HOUSE.—The term “stash  
25                house” means a location where drugs and/or

1 money are stored in furtherance of a drug dis-  
2 tribution operation.

3 (C) FICTITIOUS STASH HOUSE ROB-  
4 BERY.—The term “fictitious stash house rob-  
5 bery” means a situation in which a person who  
6 is a law enforcement officer or is acting on be-  
7 half of law enforcement describes a fictitious  
8 stash house to a targeted individual and invites  
9 the targeted individual to assist the person in  
10 robbing such fictitious stash house.

11 **SEC. 106. FOCUSING FEDERAL CRIMINAL PENALTIES FOR**  
12 **SIMPLE POSSESSION TO PLACES OF SPECIAL**  
13 **FEDERAL INTEREST IN RECOGNITION OF**  
14 **THE BALANCE OF POWER BETWEEN THE**  
15 **FEDERAL GOVERNMENT AND THE STATES.**

16 Section 404 of the Controlled Substances Act (21  
17 U.S.C. 844) is amended by inserting after “It shall be un-  
18 lawful for any person” each place it appears the following:  
19 “within the special maritime and territorial jurisdiction of  
20 the United States (as defined for the purposes of title 18,  
21 United States Code)”.

1 **TITLE II—ADDRESSING INFOR-**  
2 **MATION DISPARITY AND AC-**  
3 **CURACY IN CRIMINAL PROS-**  
4 **ECUTIONS TO PROTECT INNO-**  
5 **CENCE MORE ROBUSTLY AND**  
6 **TO REDUCE THE NUMBER OF**  
7 **WRONGFUL CONVICTIONS**

8 **SEC. 201. FINDINGS AND DECLARATIONS.**

9 The Congress finds and declares the following:

10 (1) The goal of a law enforcement investigation  
11 is to apprehend the person or persons responsible for  
12 the commission of a crime.

13 (2) Mistaken eyewitness identification has been  
14 shown to have contributed to the wrongful conviction  
15 in 72 percent of the Nation's 325 exonerations of in-  
16 nocent persons, including 20 who served time on  
17 death row and 30 who pled guilty. These innocents  
18 served an average of 13.5 years in prison before ex-  
19 oneration and release. No one benefits from a  
20 wrongful conviction—except the real perpetrator,  
21 who remains free to commit additional crimes. In  
22 half of the exoneration cases, the same DNA used  
23 to exonerate the innocent was used to identify the  
24 real perpetrator. Over 141 violent crimes could have

1       been prevented had the real perpetrator been identi-  
2       fied instead of the innocent.

3           (3) Over the past 30 years, a large body of  
4       peer-reviewed, scientific research and practice has  
5       emerged showing that simple systemic changes can  
6       protect the innocent and the public by increasing the  
7       accuracy of the evidence used to support a conviction  
8       beyond a reasonable doubt. These reforms are—

9           (A) improving the accuracy of eyewitness  
10       identification;

11          (B) preserving and analyzing forensic evi-  
12       dence;

13          (C) recording confessions and interroga-  
14       tions;

15          (D) discounting the inherent unreliability  
16       of informant or cooperator testimony;

17          (E) improving the quality of defense coun-  
18       sel;

19          (F) providing for postconviction DNA test-  
20       ing; and

21          (G) increasing compensation to the wrong-  
22       fully convicted.

23       (4) Policies and procedures to improve the ac-  
24       curacy of eyewitness identifications such as those  
25       recommended by the National Academy of Sciences,



1 the United States National Institute of Justice, the  
2 International Association of Chiefs of Police, the  
3 American Bar Association, the Michigan Bar Association,  
4 the New Jersey Office of the Attorney General,  
5 the Wisconsin Office of the Attorney General,  
6 the California Commission on the Fair Administration  
7 of Justice, and the North Carolina Actual Innocence  
8 Commission are readily available.

9 (5) More accurate eyewitness identifications increase  
10 the ability of police and prosecutors to convict  
11 the guilty and protect the innocent.

12 (6) The integrity of the criminal justice process  
13 is enhanced by adherence to best practices in evidence  
14 gathering.

15 (7) Federal, State, and local governments will  
16 benefit from the improvement of the accuracy of eyewitness  
17 identifications.

18 (8) The value of properly preserved biological  
19 evidence has been enhanced by the discovery of modern  
20 DNA testing methods, which, coupled with a  
21 comprehensive system of DNA databases that store  
22 crime scene and offender profiles, allow law enforcement  
23 to improve its crime-solving potential.

24 (9) Tapping the potential of preserved biological  
25 evidence requires the proper identification, collection,

1 preservation, storage, cataloguing and organization  
2 of such evidence.

3 (10) Law enforcement agencies indicate that  
4 “cold” case investigations are hindered by an inability  
5 to access biological evidence that was collected in  
6 connection with criminal investigations.

7 (11) Innocent people mistakenly convicted of  
8 the serious crimes for which biological evidence is  
9 probative cannot prove their innocence if such evidence  
10 is not accessible for testing in appropriate circumstances.  
11

12 (12) It is well established that the failure to update  
13 policies regarding the preservation of evidence  
14 squanders valuable law enforcement resources, manpower  
15 hours and storage space.

16 (13) Simple but crucial enhancements to protocols  
17 for properly preserving biological evidence can  
18 solve old crimes, enhance public safety and settle  
19 claims of innocence.

20 (14) Existing Federal, State, and local law regarding  
21 consideration of new evidence postconviction  
22 fails to adequately account for the enduring probative  
23 value of DNA evidence.

24 (15) During his 2005 State of the Union address,  
25 President George W. Bush urged that, “[i]n

1 America, we must make doubly sure no person is  
2 held to account for a crime he or she did not com-  
3 mit, so we are dramatically expanding the use of  
4 DNA evidence to prevent wrongful conviction”.

5 (16) United States Attorney General Eric Hold-  
6 er expressed his hope, in the interest of justice and  
7 identifying the true perpetrators of crimes, that “all  
8 levels of government will follow the Federal Govern-  
9 ment’s lead by working to expand access to DNA  
10 evidence”.

11 (17) Emerging DNA testing technologies can  
12 enhance the quality of justice.

13 (18) The scientifically reliable results of DNA  
14 testing provide the certainty and finality that bolster  
15 the public’s trust in our Federal, State, and local  
16 criminal justice systems.

17 (19) In addition to the wrongfully convicted and  
18 their families, crime victims, law enforcement, pros-  
19 ecutors, courts and the public are harmed whenever  
20 individuals guilty of crimes elude justice while inno-  
21 cent individuals are imprisoned for crimes they did  
22 not commit.

23 (20) Our Federal, State, and local governments  
24 must enhance their procedures for considering post-  
25 conviction DNA testing so that all credible claims of

1 innocence based on newly discovered evidence can be  
2 properly evaluated.

3 (21) Properly audio and video recorded custo-  
4 dial interrogations provide the best evidence of the  
5 communications that occurred during an interroga-  
6 tion; prevent disputes about how an officer con-  
7 ducted himself or treated a suspect during the  
8 course of an interrogation; prevent disputes about  
9 the account of events the defendant originally pro-  
10 vided to law enforcement; spare judges and jurors  
11 the time necessary and need to assess which account  
12 of an interrogation to believe; and enhance public  
13 confidence in the criminal process, it is the Con-  
14 gress' intent to encourage the video and audio re-  
15 cording of all custodial interrogations.

16 (22) An informant is a person who was not a  
17 victim of a crime who offers to provide information  
18 or assistance to law enforcement in exchange for le-  
19 niency or some other benefit. The testimony of in-  
20 formants, who were not at the scene of the crime  
21 and who have reason to seek leniency from the  
22 criminal justice system, is inherently suspect. How-  
23 ever, truthful informant testimony may still be im-  
24 portant in solving crimes.

1           (23) Rewarding informants, either tacitly or ex-  
2           plicitly, by the Government produces dangerous in-  
3           centives to manufacture or fabricate testimony.  
4           Thus, it is incumbent upon the judicial system to as-  
5           sess whether informant testimony is reliable.

6           (24) The use of informant testimony without a  
7           system to properly assess its reliability or corrobo-  
8           rate its substance provides fertile ground for ob-  
9           struction of the fair administration of justice.

10          (25) Therefore, a system to properly assess the  
11          reliability of informant testimony, including, but not  
12          limited to audio and video recording of all state-  
13          ments provided by informants, should be developed.

14          (26) The failure to properly educate law en-  
15          forcement, defense lawyers, prosecutors, judges and  
16          other fact finders about the vulnerabilities inherent  
17          in informant testimony enables improper consider-  
18          ation of such testimony, which can seriously under-  
19          mine the integrity of our criminal justice system.

20 **SEC. 202. REAUTHORIZATION OF THE INNOCENCE PROTEC-**  
21 **TION ACT OF 2004.**

22          The Innocence Protection Act of 2004 (18 U.S.C.  
23 3600 note) is amended—

1 (1) in section 412(b) (42 U.S.C. 14136e(b)), by  
2 striking “2005 through 2009” and inserting “2016  
3 through 2021”; and

4 (2) in section 426(a) (42 U.S.C. 14163e(a)), by  
5 striking “2005 through 2009” and inserting “2016  
6 through 2021”.

7 **SEC. 203. ACCURACY AND RELIABILITY OF EVIDENCE IN**  
8 **CRIMINAL CASES; ADDRESSING INFORMA-**  
9 **TION DISPARITY IN CRIMINAL CASES.**

10 (a) IN GENERAL.—Not later than 180 days after the  
11 date of enactment of this Act, the Attorney General shall,  
12 in consultation with the Federal Public or Community De-  
13 fender from the Defender Services Advisory Group, the  
14 American Bar Association, the American Law Institute,  
15 and other expert organizations, including the Innocence  
16 Project, create training and best practices to be imple-  
17 mented by Federal prosecutors and law enforcement offi-  
18 cers prior to trial, consistent with the constitutional rights  
19 of the defendant, that increase protection for the innocent  
20 by reducing the inaccuracy and unreliability of evidence  
21 relied upon in criminal cases, including—

22 (1) procedures and protocols for collecting,  
23 marking, preserving, cataloguing, and handling evi-  
24 dence;

1           (2) training on interrogation to eliminate coer-  
2           cive tactics that lead to false or unreliable confes-  
3           sions;

4           (3) training on interviewing witnesses to elimi-  
5           nate suggestive tactics that lead to false or unreli-  
6           able identifications and memories;

7           (4) training to eliminate cross-racial identifica-  
8           tion mistakes;

9           (5) training to avoid and discourage the use of  
10          unreliable informant or cooperator testimony;

11          (6) requiring audio and video recording of all  
12          interviews and interrogations in connection with any  
13          defendant's prosecution;

14          (7) promoting a fair and expeditious disposition  
15          of the charges, whether by diversion, plea, or trial,  
16          consistent with defendants' constitutional rights;

17          (8) providing the defendant with sufficient in-  
18          formation to make an informed plea;

19          (9) permitting the defendant to thoroughly pre-  
20          pare for trial and minimize surprise at trial by pro-  
21          viding prompt discovery to the defendant;

22          (10) reducing interruptions and complications  
23          during trial to the extent practicable and avoid un-  
24          necessary and repetitious trials by identifying and  
25          resolving evidentiary disputes prior to trial;

1           (11) minimizing the procedural and substantive  
2 inequities among similarly situated defendants, par-  
3 ticularly between indigent defendants and non-  
4 indigent defendants; and

5           (12) minimizing the burden upon victims, wit-  
6 nesses, counsel, and the taxpayer.

7       (b) INITIAL DISCLOSURE TO DEFENDANTS.—The  
8 Attorney General shall instruct Federal prosecutors and  
9 law enforcement agents, upon request by the defendant  
10 and not later than 14 days after such request, to permit  
11 the defendant to inspect and to copy or photograph the  
12 full contents of all investigative and case files, excepting  
13 only privileged material or attorney work product, to per-  
14 mit inspection, copying, testing, and photographing of dis-  
15 closed documents or tangible objects, including the fol-  
16 lowing documents or tangible objects:

17           (1) All relevant recorded, written, and oral  
18 statements of the defendant or of any codefendant  
19 that are within the possession or control of the Gov-  
20 ernment, and any documents relating to the acquisi-  
21 tion of such statements.

22           (2) The names and addresses of all persons  
23 known to the Government to have information con-  
24 cerning the offense charged, together with all writ-  
25 ten statements of any such person that are within



1 the possession or control of the Government and  
2 that relate to the subject matter of the offense  
3 charged.

4 (3) The identity of persons the Government in-  
5 tends to call as witnesses at trial.

6 (4) Any information regarding any inquiry, so-  
7 licitation, or agreement between the Government and  
8 any individual that constitutes an inquiry into or so-  
9 licitation of cooperation or testimony of the indi-  
10 vidual.

11 (5) Any reports or written statements of any  
12 expert the Government intends to call as a witness  
13 at trial, including results of physical or mental ex-  
14 aminations, scientific tests, experiments, compari-  
15 sons, a written description of the substance of the  
16 proposed testimony of the expert, the expert's opin-  
17 ion, and the underlying basis of that opinion, if that  
18 report or written statement of the expert is material  
19 to preparing the defense or the Government intends  
20 to use the item in its case-in-chief at trial. At the  
21 defendant's request, the Government must give to  
22 the defendant a written summary of any testimony  
23 that the Government intends to use under the Fed-  
24 eral Rules of Evidence during its case-in-chief at  
25 trial. If the Government requests discovery under

1 rule 16(b)(1)(C)(ii) of the Federal Rules of Criminal  
2 Procedure and the defendant complies, the Govern-  
3 ment must, at the defendant's request, give to the  
4 defendant a written summary of testimony that the  
5 Government intends to use the Federal Rules of Evi-  
6 dence as evidence at trial on the issue of the defend-  
7 ant's mental condition. The summary provided  
8 under this paragraph must describe the witness's  
9 opinions, the bases and reasons for those opinions,  
10 and the witness's qualifications.

11 (6) Any tangible objects, including books, pa-  
12 pers, documents, photographs, buildings, places, or  
13 any other objects, which pertain to the case or which  
14 were obtained from or belong to the defendant, and  
15 the identity of any tangible objects if the item is ma-  
16 terial to preparing the defense or the Government  
17 intends to use the item in its case-in-chief at trial.

18 (7) Any record of prior criminal convictions,  
19 pending charges, or probationary status of the de-  
20 fendant or of any codefendant or cooperating wit-  
21 ness, and insofar as known to the Government, any  
22 record of convictions, pending charges, or proba-  
23 tionary status that may be used to impeach of any  
24 witness to be called by either party at trial.

1           (8) Any material, documents, or information re-  
2 relating to lineups, showups, and picture or voice iden-  
3 tifications, if it is relevant to preparing the defense  
4 or the Government intends to use the item in its  
5 case-in-chief.

6           (9) Any material or information within the Gov-  
7 ernment's possession or control which tends to ne-  
8 gate the guilt of the defendant as to the offense  
9 charged or would tend to mitigate punishment of the  
10 defendant.

11           (10) Any evidence of character, reputation, or  
12 other conduct of the defendant that the Government  
13 has investigated.

14           (11) If the defendant's conversations or prem-  
15 ises were subject to electronic surveillance (including  
16 wiretapping) in connection with the investigation or  
17 prosecution of the case, any transcripts, notes,  
18 memos, recordings, or other materials derived from  
19 such surveillance.

20           (12) Any tangible object obtained through a  
21 search and seizure, including any information, docu-  
22 ments, or other material relating to the acquisition  
23 of that object, if the object, information, or docu-  
24 ment, or material is material to preparing the de-  
25 fense or the Government intends to use that object,

1 information, document, or material in its case-in-  
2 chief.

3 (13) Any evidence that a forensic technician,  
4 laboratory, or facility involved in the case has been  
5 responsible for an unreliable forensic analysis or  
6 questionable conviction in the past.

7 (c) PROMPT DISCLOSURE OF ADDITIONAL INFORMA-  
8 TION LATER ADDED TO THE INVESTIGATIVE OR CASE  
9 FILE.—Upon completing the initial disclosure required  
10 under subsection (b), the Government shall, not later than  
11 14 days after information of the sort described in sub-  
12 section (b) is added to the investigative or case file, dis-  
13 close the full contents of that additional information, ex-  
14 cepting only privileged material or attorney work product,  
15 to permit inspection, copying, testing, and photographing  
16 of disclosed documents or tangible objects, including the  
17 documents or tangible objects described in subsection (b),  
18 irrespective of whether the Government intends to rely on  
19 such information at trial and irrespective of whether or  
20 not the Government considers such information material  
21 or exculpatory.

22 (d) PROTECTIVE ORDER.—

23 (1) IN GENERAL.—Upon written application by  
24 the Government, the court may grant a protective  
25 order limiting the scope or timing of disclosure re-

1       quired by this section, or limiting the persons to  
2       whom such disclosure may be made or disseminated.

3           (2) REQUIREMENTS FOR GRANTING.—The ap-  
4       plication shall be granted only to the extent the Gov-  
5       ernment demonstrates that such disclosure would  
6       cause—

7           (A) a particularized and substantial risk of  
8       physical harm or intimidation to any person;

9           (B) the release of information that would  
10       compromise a significant national security in-  
11       terest; or

12          (C) the violation of privacy rights, pro-  
13       tected by Federal law, of a non-law-enforcement  
14       witness.

15          (3) NATURE OF ORDER IF GRANTED.—If grant-  
16       ed, the protective order shall be narrowly tailored to  
17       limit the scope, timing or extent of disclosure only  
18       to the extent necessary to address the particularized  
19       need for delayed, limited or nondisclosure, while pro-  
20       tecting the defendant’s right to prepare for trial or  
21       sentencing to the extent possible.

22          (4) APPLICATION MAY BE EX PARTE.—The  
23       written application may be made ex parte so long as  
24       the Government provides notice to the defendant of  
25       the general nature of the application, and the de-



1           (2) the investigative and prosecutorial case file  
2           in the defendant's case, including any attorney work  
3           product.

4           (c) **FAILURE TO COMPLY.**—The Attorney General's  
5           failure to comply with any requirement of this section enti-  
6           tles the defendant to appropriate judicial relief.

7           (d) **HABEAS RELIEF.**—A defendant who receives a  
8           notice under subsection (a) and whose conviction has be-  
9           come final is entitled to seek judicial relief under section  
10          2255 of title 28, United States Code, notwithstanding any  
11          procedural limitation or bar to such relief, so long as the  
12          defendant exercised due diligence in seeking relief after  
13          receiving the notice described in subsection (a).

14          **SEC. 206. REMEDIES.**

15          (a) **WITHIN THE DEPARTMENT OF JUSTICE.**—The  
16          Attorney General shall take appropriate disciplinary meas-  
17          ures to sanction any failure of a Federal prosecutor or  
18          law enforcement officer to comply in good faith with the  
19          procedures and requirements created by or under this  
20          title.

21          (b) **JUDICIAL REMEDY.**—The court may exclude from  
22          trial any evidence involved in a failure of a Federal pros-  
23          ecutor or law enforcement officer to comply in good faith  
24          with the procedures and requirements created by or under  
25          this title.

1 **SEC. 207. TOOLKITS FOR STATE AND LOCAL GOVERNMENT.**

2 Not later than 180 days after the date of the enact-  
3 ment of this Act, the Attorney General shall provide tool-  
4 kits regarding training in best practices developed under  
5 this title to State and local governments and encourage  
6 them to adopt these practices to protect the innocent.

7 **TITLE III—ENCOURAGING AC-**  
8 **COUNTABILITY WITH GREAT-**  
9 **ER USE OF EVIDENCE-BASED**  
10 **SENTENCING ALTERNATIVES**  
11 **FOR LOWER-LEVEL OFFEND-**  
12 **ERS**

13 **SEC. 301. ELIGIBILITY FOR PREJUDGEMENT PROBATION.**

14 Section 3607(a)(1) of title 18, United States Code,  
15 is amended by striking “been convicted of violating a Fed-  
16 eral or State law relating to controlled substances” and  
17 inserting “been convicted of a felony under the Controlled  
18 Substances Act, the Controlled Substances Import and  
19 Export Act, or any other Federal offense deriving its pen-  
20 alties from either such Act”.

21 **SEC. 302. SENTENCE OF PROBATION.**

22 Subsection (a) of section 3561 of title 18, United  
23 States Code, is amended to read as follows:

24 “(a) IN GENERAL.—

25 “(1) PROBATION GENERALLY AVAILABLE.—Ex-  
26 cept as provided in paragraph (2), a defendant who



1 has been found guilty of an offense may be sen-  
2 tenced to probation.

3 “(2) GENERAL EXCEPTIONS.—A defendant may  
4 not be sentenced to probation if—

5 “(A) the offense is a Class A or Class B  
6 felony and the defendant is an individual;

7 “(B) the offense is an offense for which  
8 probation has been expressly precluded; or

9 “(C) the defendant is sentenced at the  
10 same time to a term of imprisonment for the  
11 same or a different offense that is not a petty  
12 offense.

13 “(3) PRESUMPTION OF PROBATION FOR CER-  
14 TAIN OFFENDERS.—The court shall sentence an oth-  
15 erwise eligible defendant to probation, if the defend-  
16 ant is a first-time Federal offender whose place of  
17 residence allows for Federal probation supervision  
18 and who did not engage in violent conduct as a part  
19 of the offense, unless the court, having considered  
20 the nature and circumstances of the offense and the  
21 history and characteristics of the defendant, finds on  
22 the record that a term of probation would not be ap-  
23 propriate. However, a defendant convicted of a Fed-  
24 eral sex offense, as described in section 111 of the  
25 Sex Offender Registration and Notification Act, is

1 not subject to a presumption of probation under this  
2 paragraph.”.

3 **SEC. 303. DIRECTIVE TO THE SENTENCING COMMISSION**  
4 **REGARDING USE OF PROBATION.**

5 (a) DIRECTIVE TO THE SENTENCING COMMISSION.—  
6 Pursuant to its authority under section 994(p) of title 28,  
7 United States Code, and in accordance with this section,  
8 the United States Sentencing Commission shall review and  
9 amend its guidelines and its policy statements applicable  
10 to persons eligible for probation to ensure that the guide-  
11 lines and policy statements are consistent with the amend-  
12 ments made by sections 301 and 302.

13 (b) CONSIDERATIONS.—In carrying out this section,  
14 the United States Sentencing Commission shall con-  
15 sider—

16 (1) the mandate of the United States Sen-  
17 tencing Commission, under section 994(g) of title  
18 28, United States Code, to formulate the sentencing  
19 guidelines in such a way as to “minimize the likeli-  
20 hood that the Federal prison population will exceed  
21 the capacity of the Federal prisons”;

22 (2) the fiscal implications of any amendments;

23 (3) relevant public safety concerns; and

1           (4) the intent of Congress that prison be re-  
2           served for serious offenders for whom prison is most  
3           appropriate.

4 **SEC. 304. ESTABLISHING ACCOUNTABILITY EVIDENCE-**  
5                   **BASED PROBLEM SOLVING COURT PRO-**  
6                   **GRAMS.**

7           (a) IN GENERAL.—Part II of title 18, United States  
8 Code, is amended by inserting after chapter 207 the fol-  
9 lowing:

10           **“CHAPTER 207A—PROBLEM-SOLVING**  
11                   **COURT PROGRAMS**

“Sec.

“3157. Establishment of problem-solving court programs.

“3158. Evaluation of problem-solving court programs.

“3159. Definitions.

12 **“§ 3157. Establishment of problem-solving court pro-**  
13                   **grams**

14           “(a) IN GENERAL.—A United States district court  
15 may establish a problem-solving court program in its dis-  
16 trict.

17           “(b) USE OF RESEARCH-BASED PRINCIPLES AND  
18 PRACTICES.—The Director of the Administrative Office of  
19 the United States Courts shall ensure that all Federal  
20 courts have available to them current information and re-  
21 search relating to best practices for reducing participant  
22 recidivism through problem-solving court programs.



1 mental health, employment, or veterans’ programs;  
2 and

3 “(2) the term ‘problem-solving court program  
4 coordinator’ means an existing employee of the  
5 United States Courts who is responsible for coordi-  
6 nating the establishment, staffing, operation, evalua-  
7 tion, and integrity of the problem solving court pro-  
8 gram.”.

9 (b) CLERICAL AMENDMENT.—The table of chapters  
10 for part II of title 18, United States Code, is amended  
11 by inserting after the item relating to chapter 207 the fol-  
12 lowing new item:

**“207A. Problem-solving court programs ..... 3157”.**

1 **TITLE IV—CONCENTRATING**  
2 **PRISON SPACE ON VIOLENT**  
3 **AND CAREER CRIMINALS**

4 **Subtitle A—Restoring Original**  
5 **Congressional Intent To Focus**  
6 **Federal Drug Mandatory Mini-**  
7 **mums Only on Managers, Super-**  
8 **visors, Organizers, and Leaders**  
9 **of Drug Trafficking Organiza-**  
10 **tions and To Avoid Duplicative**  
11 **Prosecution With States**

12 **SEC. 401. FOCUSING THE APPLICATION OF FEDERAL MAN-**  
13 **DATORY MINIMUMS FOR CERTAIN DRUG OF-**  
14 **FENSES TO RESTORE ORIGINAL CONGRES-**  
15 **SIONAL INTENT RESPECTING THE BALANCE**  
16 **OF POWER BETWEEN THE FEDERAL GOVERN-**  
17 **MENT AND THE STATES.**

18 (a) CONTROLLED SUBSTANCES ACT.—Section 401 of  
19 the Controlled Substances Act (21 U.S.C. 841) is amend-  
20 ed by adding at the end the following:

21 “(i) CLARIFYING CONGRESSIONAL INTENT REGARD-  
22 ING APPLICATION OF CERTAIN PENALTIES.—(1) The  
23 mandatory minimum penalties set forth in subparagraph  
24 (A) of subsection (b)(1) apply only if the defendant was

1 an organizer or leader of a drug trafficking organization  
2 of five or more participants.

3 “(2) The mandatory minimum penalties set forth in  
4 subparagraph (B) of subsection (b)(1) apply only if the  
5 defendant was an organizer, leader, manager, or super-  
6 visor of a drug trafficking organization of five or more  
7 participants.

8 “(3) The penalties set forth in subparagraph (C) of  
9 subsection (b)(1) apply only if—

10 “(A) the type and quantity of the controlled or  
11 counterfeit substance violates subparagraph (A) or  
12 (B) of subsection (b)(1); and

13 “(B) the defendant was not a leader, organizer,  
14 manager, or supervisor, but was otherwise employed  
15 in a drug trafficking organization of five or more  
16 participants.

17 “(4) The penalties set forth in subsection (b)(1)(D)  
18 apply only if—

19 “(A) the type and quantity of the controlled or  
20 counterfeit substance does not violate subparagraph  
21 (A) or (B) of subsection (b)(1); and

22 “(B) the defendant is not a leader, organizer,  
23 manager, or supervisor of or otherwise employed by  
24 a drug trafficking organization of five or more par-  
25 ticipants.

1       “(5) The penalties set forth in section 404 shall apply  
2 to prosecutions under this section if—

3               “(A) the defendant’s conduct does not violate  
4 paragraphs (1) through (3); and

5               “(B) the defendant’s role was minor or mini-  
6 mal.

7       “(6) Notwithstanding subsection (b)(1)(D), any per-  
8 son who violates subsection (a) of this section by distrib-  
9 uting a small amount of marijuana for no remuneration  
10 shall be treated as provided in section 404 and section  
11 3607 of title 18, United States Code.”.

12       (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT  
13 ACT.—Section 1010(b) of the Controlled Substances Im-  
14 port and Export Act (21 U.S.C. 960(b)) is amended—

15               (1) so that paragraph (4) reads as follows:

16       “(4) In the case of less than 50 kilograms of mari-  
17 huana, except in the case of 50 or more marihuana plants  
18 regardless of weight, 10 kilograms of hashish, or one kilo-  
19 gram of hashish oil, such person shall, except as provided  
20 in paragraphs (4) and (5) of section 401(b), be sentenced  
21 to a term of imprisonment of not more than 5 years, a  
22 fine not to exceed the greater of that authorized in accord-  
23 ance with the provisions of title 18, United States Code,  
24 or \$250,000, if the defendant is an individual or  
25 \$1,000,000 if the defendant is other than an individual,



1 or both. If any person commits such a violation after a  
2 prior conviction for a felony drug offense has become final,  
3 such person shall be sentenced to a term of imprisonment  
4 of not more than 10 years, a fine not to exceed the greater  
5 of twice that authorized in accordance with the provisions  
6 of title 18, United States Code, or \$500,000 if the defend-  
7 ant is an individual or \$2,000,000 if the defendant is other  
8 than an individual, or both. Notwithstanding section 3583  
9 of title 18, United States Code, any sentence imposing a  
10 term of imprisonment under this paragraph shall, in the  
11 absence of such a prior conviction, impose a term of super-  
12 vised release of at least 2 years in addition to such term  
13 of imprisonment and shall, if there was such a prior con-  
14 viction, impose a term of supervised release of at least 4  
15 years in addition to such term of imprisonment.”; and

16 (2) so that paragraph (5) reads as follows:

17 “(5) In the case of a violation of subsection (a) in-  
18 volving a controlled substance in schedule III, such person  
19 shall be sentenced in accordance with paragraphs (1)  
20 through (4) of this subsection and subsection (e).”.

21 (c) CLARIFYING ORIGINAL CONGRESSIONAL INTENT  
22 REGARDING APPLICATION OF CERTAIN PENALTIES.—  
23 Section 1010 of the Controlled Substances Import and Ex-  
24 port Act (21 U.S.C. 960) is amended by adding at the  
25 end the following:

1           “(e) CLARIFYING ORIGINAL CONGRESSIONAL INTENT  
2 REGARDING APPLICATION OF PENALTIES UNDER THE  
3 CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—

4           “(1) The mandatory minimum penalties set  
5 forth in paragraph (1) of subsection (b) apply only  
6 if the defendant was an organizer or leader of a  
7 drug trafficking organization of five or more partici-  
8 pants.

9           “(2) The mandatory minimum penalties set  
10 forth in paragraph (2) of subsection (b) apply only  
11 if the defendant was an organizer, leader, manager,  
12 or supervisor of a drug trafficking organization of  
13 five or more participants.

14           “(3) The penalties set forth in paragraph (3) of  
15 subsection (b) apply only if—

16           “(A) the type and quantity of the con-  
17 trolled or counterfeit substance violates para-  
18 graph (1) or (2) of subsection (b); and

19           “(B) the defendant was not a leader, orga-  
20 nizer, manager, or supervisor, but was other-  
21 wise employed in a drug trafficking organiza-  
22 tion of five or more participants.

23           “(4) The penalties set forth in paragraph (4) of  
24 subsection (b) apply only if—

1           “(A) the type and quantity of the con-  
2           trolled or counterfeit substance does not violate  
3           paragraph (1) or (2) of subsection (b); and

4           “(B) the defendant is not a leader, orga-  
5           nizer, manager, or supervisor of or otherwise  
6           employed by a drug trafficking organization of  
7           five or more participants.

8           “(5) The penalties set forth in section 404 of  
9           the Controlled Substances Act shall apply to pros-  
10          ecutions under section 1010(b) of this Act if—

11           “(A) the defendant’s conduct does not vio-  
12          late paragraphs (1) through (3); and

13           “(B) the defendant’s role was minor or  
14          minimal.

15           “(6) Notwithstanding paragraph (4) of sub-  
16          section (b), whoever violates subsection (a) of this  
17          section by distributing a small amount of marijuana  
18          for no remuneration shall be treated as provided in  
19          section 404 of the Controlled Substances Act and  
20          section 3607 of title 18, United States Code.”.

21          (d) DEFINITIONS.—In this section and section 401(i)  
22          of title II:

23           (1) The term “participant” means a person who  
24          is criminally responsible for the commission of the

1 offense, and does not include a law enforcement offi-  
2 cer or a person acting on behalf of law enforcement.

3 (2) The term “organizer” or “leader” is a per-  
4 son who, over a significant period of time—

5 (A) exercised primary decisionmaking au-  
6 thority over the most significant aspects of the  
7 criminal activity;

8 (B) engaged in significant planning of the  
9 acquisition or distribution of large quantities of  
10 drugs or sums of money for the initiation and  
11 commission of the offense;

12 (C) recruited and paid accomplices;

13 (D) delegated tasks to other participants  
14 on a regular basis;

15 (E) received a significantly larger share of  
16 the proceeds of the crime than other partici-  
17 pants; and

18 (F) exercised supervisory control or au-  
19 thority over at least four other participants who  
20 meet the definition of “manager” or “super-  
21 visor” in subsection (d)(3) over a substantial  
22 period of time.

23 (3) The term “manager” or “supervisor” is a  
24 person who, over a significant period of time—

1 (A) exercised some decisionmaking author-  
2 ity over significant aspects of the criminal activ-  
3 ity;

4 (B) received a larger share of the proceeds  
5 of the crime than most other participants; and

6 (C) provided ongoing, day-to-day super-  
7 vision of, or specialized training to, at least four  
8 other participants over a substantial period of  
9 time.

10 (e) APPLICABILITY TO OTHER CONTROLLED SUB-  
11 STANCES OFFENSES DERIVING THEIR PENALTIES  
12 THEREFROM.—The amendments made by this section  
13 apply to any provision of law for which the penalties are  
14 derived from any of those sections.

15 **SEC. 402. MODIFICATION OF CRITERIA FOR “SAFETY**  
16 **VALVE” LIMITATION ON APPLICABILITY OF**  
17 **CERTAIN MANDATORY MINIMUMS.**

18 (a) IN GENERAL.—Section 3553(f) of title 18, United  
19 States Code, is amended—

20 (1) in the matter preceding paragraph (1), by  
21 inserting “or under any provision of law for which  
22 the penalties are derived from any of those sections,  
23 or section 924(c) of this title in relation to a drug  
24 trafficking crime,” before “the court shall impose”;

25 (2) so that paragraph (1) reads as follows:

1 “(1) the defendant—

2 “(A) does not have a criminal history cat-  
3 egory higher than I after any downward depar-  
4 ture under the sentencing guidelines;

5 “(B) does not have—

6 “(i) a criminal history category higher  
7 than II after any downward departure  
8 under the sentencing guidelines;

9 “(ii) any prior conviction for an of-  
10 fense that has as an element the use, at-  
11 tempted use, or threatened use of physical  
12 force against the person of another; and

13 “(iii) the offense of conviction that  
14 is—

15 “(I) an offense under section 922  
16 or 924;

17 “(II) a sex offense (as defined in  
18 section 111 of the Adam Walsh Child  
19 Protection and Safety Act of 2006);

20 “(III) a Federal crime of ter-  
21 rorism (as defined in section  
22 2332b(g)(5));

23 “(IV) a racketeering offense  
24 under section 1962; or

1                   “(V) conspiring to use and invest  
2                   illicit drug profits under section 414  
3                   of the Controlled Substances Act; or

4                   “(C) committed the offense as the result  
5                   of—

6                   “(i) mental illness, cognitive deficits,  
7                   or a history of persistent or serious sub-  
8                   stance abuse or addiction;

9                   “(ii) financial, emotional, or mental  
10                  distress;

11                  “(iii) trauma suffered while serving on  
12                  active duty in an armed conflict zone for a  
13                  branch of the United States military; or

14                  “(iv) victimization stemming from any  
15                  combination of physical, mental, emotional,  
16                  or psychological abuse or domestic vio-  
17                  lence, if the offense was committed at the  
18                  direction of another individual who—

19                         “(I) was a more culpable partici-  
20                         pant in the instant offense or played  
21                         a significantly greater role in the of-  
22                         fense; or

23                         “(II) effectively coerced the de-  
24                         fendant’s involvement in the offense  
25                         by means of threats or abuse either

1                   personally or from any person or  
2                   group;”;

3                   (3) so that paragraph (2) reads as follows:

4                   “(2) the defendant did not use violence or cred-  
5                   ible threats of violence in connection with the of-  
6                   fense;” and

7                   (4) so that paragraph (4) reads as follows:

8                   “(4) the defendant was not convicted under sec-  
9                   tion 401 of the Controlled Substances Act or section  
10                  1010(b) of the Controlled Substances Import and  
11                  Export Act for being an organizer, leader, manager,  
12                  or supervisor of a drug trafficking of five or more  
13                  participants, and was not engaged in continuing  
14                  criminal enterprise, as defined in section 408 of the  
15                  Controlled Substances Act; and”.

16                  (b) LIMITATION ON USE OF CERTAIN INFORMATION  
17 TO DETERMINE GUIDELINE RANGE.—Section 3553 of  
18 title 18, United States Code, as amended by section  
19 105(b)(1) of this Act, is amended further by adding at  
20 the end the following:

21                  “(h) LIMITATION ON USE OF CERTAIN INFORMATION  
22 TO DETERMINE GUIDELINE SENTENCE.—Information  
23 and evidence provided by the defendant pursuant to sub-  
24 section (f)(5) shall not be used by the court in determining  
25 the applicable guideline range.”.



1 **SEC. 403. CONSISTENCY IN THE USE OF PRIOR CONVIC-**  
2 **TIONS FOR MANDATORY SENTENCING EN-**  
3 **HANCEMENTS.**

4 (a) DEFINITION OF FELONY DRUG OFFENSE.—Sec-  
5 tion 102(44) of the Controlled Substances Act (21 U.S.C.  
6 802(44)) is amended to read as follows:

7 “(44) For the purpose of increased punishment based  
8 on a prior conviction for a ‘felony drug offense’, the term  
9 ‘felony drug offense’—

10 “(A) means an offense under Federal or State  
11 law that—

12 “(i) has as an element the knowing manu-  
13 facture, distribution, import, export, or posses-  
14 sion with intent to distribute a controlled sub-  
15 stance;

16 “(ii) is classified by the applicable law of  
17 the jurisdiction as a felony for which a max-  
18 imum term of imprisonment of 10 years or  
19 more is prescribed by law; and

20 “(iii) for which a sentence of imprisonment  
21 exceeding 1 year and 1 month was imposed and  
22 was not suspended; but

23 “(B) does not include an offense for which—

24 “(i) the conviction occurred more than 10  
25 years before the defendant’s commission of the

1 instant offense, excluding any period during  
2 which the defendant was incarcerated;

3 “(ii) the prosecution relating to the offense  
4 was ultimately dismissed, including in a case in  
5 which the defendant previously entered a plea  
6 of guilty or nolo contendere;

7 “(iii) the conviction has been reversed, va-  
8 cated, set aside, or otherwise vitiated by judicial  
9 action;

10 “(iv) the conviction was expunged;

11 “(v) the defendant has been pardoned or  
12 had civil rights restored; or

13 “(vi) the conviction was unconstitutional  
14 under the caselaw of the United States Su-  
15 preme Court in effect at the time the conviction  
16 occurred or after the conviction became final.”.

17 (b) DEFINITION OF FELONY DRUG TRAFFICKING  
18 OFFENSE.—Section 102 of the Controlled Substances Act  
19 (21 U.S.C. 802) is amended by adding at the end the fol-  
20 lowing:

21 “(57) For the purpose of increased punishment based  
22 on a prior conviction for a ‘drug trafficking offense’, that  
23 term has the same meaning as the term ‘felony drug of-  
24 fense’ under paragraph (44).”.

1 (c) DEFINITIONS OF RELATED TERMS FOR CHAPTER  
2 44 OF TITLE 18, UNITED STATES CODE.—Section  
3 924(e)(2) of title 18, United States Code, is amended—

4 (1) in subparagraph (A), by striking “means—  
5 ” and all that follows through the end of the sub-  
6 paragraph and inserting “means a ‘felony drug of-  
7 fense’ as that term is defined in section 102(44) of  
8 the Controlled Substances Act;”;

9 (2) in subparagraph (B), by inserting “, for  
10 which a sentence of imprisonment exceeding 1 year  
11 and 1 month was imposed and not suspended” after  
12 “adult”; and

13 (3) in subparagraph (C), by striking the period  
14 at the end and inserting “, but does not include a  
15 conviction for any offense that is not classified as a  
16 felony by the applicable law of the jurisdiction or is  
17 a conviction of the sort described in subparagraph  
18 (B) of section 102(44) of the Controlled Substances  
19 Act and does not include any finding that the de-  
20 fendant committed an act of juvenile delinquency  
21 that was made more than 10 years before the de-  
22 fendant’s commencement of the instant offense, ex-  
23 cluding any period during which the defendant was  
24 incarcerated; and”.

1 (d) REQUIREMENT OF FILING AN INFORMATION.—  
2 Section 924(e) of title 18, United States Code, is amended  
3 by adding at the end the following:

4 “(3) A person may not be sentenced to in-  
5 creased punishment under this subsection unless, be-  
6 fore trial or entry of a guilty plea, the United States  
7 Attorney files an information with the court and  
8 serves a copy on the person or his counsel stating  
9 in writing the previous convictions to be relied  
10 upon.”.

11 (e) APPLYING EVIDENCE-BASED PRACTICES FOR  
12 AGE-RELATED DECLINES IN RECIDIVISM TO CERTAIN  
13 PENALTIES.—

14 (1) IN GENERAL.—Section 401(b)(1) of the  
15 Controlled Substances Act (21 U.S.C. 841(b)(1)) is  
16 amended—

17 (A) in subparagraph (A)—

18 (i) in the flush text following clause  
19 (viii), by striking “life imprisonment, a  
20 fine” and inserting “imprisonment for 35  
21 years, a fine”; and

22 (ii) in the flush text following clause  
23 (viii), by striking “term of life imprison-  
24 ment without release” and inserting “im-  
25 prisonment for 35 years”;

1 (B) in subparagraph (B), in the flush text  
2 following clause (viii), by striking “life impris-  
3 onment, a fine” and inserting “imprisonment  
4 for 35 years, a fine”; and

5 (C) in subparagraph (C), by striking “life  
6 imprisonment, a fine” and inserting “imprison-  
7 ment for 35 years, a fine”.

8 (2) RETROACTIVE EFFECT.—The amendments  
9 made by this subsection apply with respect to convic-  
10 tions occurring before, on, or after the date of the  
11 enactment of this Act.

12 (f) PROCEDURES RELATED TO SEEKING ENHANCED  
13 DRUG PENALTIES FOR DRUG TRAFFICKING.—Section  
14 411 of the Controlled Substances Act (21 U.S.C. 851) is  
15 amended by striking paragraph (2) of subsection (a) and  
16 inserting the following:

17 “(2) No person who is convicted of an offense under  
18 this part shall be sentenced to increased punishment by  
19 reason of a prior conviction if—

20 “(A) except as provided in paragraph (4), the  
21 Government fails, before trial, or before entry of a  
22 plea of guilty, to file an information with the court  
23 and serves a copy of such information on the person  
24 or counsel for that person, stating any previous con-

1 conviction upon which the Government intends to rely  
2 for the enhanced penalty;

3 “(B) the person was not convicted as alleged in  
4 the information;

5 “(C) the conviction is for simple possession of  
6 a controlled substance, the offense was classified as  
7 a misdemeanor under the law of the jurisdiction in  
8 which the proceedings were held, or the proceedings  
9 resulted in a disposition that was not deemed a con-  
10 viction under that law;

11 “(D) the conviction has been dismissed, ex-  
12 punged, vacated, or set aside, or for which the per-  
13 son has been pardoned or has had civil rights re-  
14 stored;

15 “(E) the conviction is invalid; or

16 “(F) the person is otherwise not subject to an  
17 increased sentence as a matter of law.

18 “(3) An information may not be filed under this sec-  
19 tion—

20 “(A) if the increased punishment which may be  
21 imposed is imprisonment for a term in excess of  
22 three years unless the person either waived or was  
23 afforded prosecution by indictment for the offense  
24 for which such increased punishment may be im-  
25 posed; or

1           “(B) more than 10 years after the date the  
2 judgment for the prior conviction was entered, ex-  
3 cluding any period during which the defendant was  
4 incarcerated.

5           “(4) Upon a showing by the Government that facts  
6 regarding prior convictions could not with due diligence  
7 be obtained prior to trial or before entry of a plea of guilty,  
8 the court may postpone the trial or the taking of the plea  
9 of guilty for a reasonable period for the purpose of obtain-  
10 ing those facts.

11          “(5) Clerical mistakes in the information, or in the  
12 underlying conviction records, may be amended at any  
13 time prior to the pronouncement of the sentence.

14          “(6) The Government shall bear the burden of proof  
15 beyond a reasonable doubt regarding the existence and ac-  
16 curacy of any prior conviction alleged.

17          “(7) The person with respect to whom the informa-  
18 tion was filed may challenge a prior conviction before sen-  
19 tence is imposed.

20          “(8) If a prior conviction that was a basis for in-  
21 creased punishment under this part has been vacated in  
22 any State or Federal proceeding, or is for an offense that  
23 no longer qualifies as a felony drug offense under United  
24 States Supreme Court or relevant circuit caselaw, the per-  
25 son shall be resentenced to any sentence available under

1 the law at the time of resentencing, not to exceed the origi-  
2 nal sentence.”.

3 (g) INFORMATION FILED BY UNITED STATES AT-  
4 TORNEY.—Paragraph (4) of section 3559(c) of title 18,  
5 United States Code, is amended to read as follows:

6 “(4) INFORMATION FILED BY UNITED STATES  
7 ATTORNEY.—A person may not be sentenced to in-  
8 creased punishment under this subsection unless, be-  
9 fore trial or entry of a guilty plea, the United States  
10 Attorney files an information with the court and  
11 serves a copy on the person or his counsel stating  
12 in writing the previous convictions to be relied  
13 upon.”.

14 (h) RESENTENCING.—Section 3559(c)(7) of title 18,  
15 United States Code, is amended by inserting “not to ex-  
16 ceed the original sentence” before the period at the end.

17 **SEC. 404. CLARIFICATION OF APPLICABILITY OF THE FAIR**  
18 **SENTENCING ACT.**

19 (a) DEFENDANTS PREVIOUSLY SENTENCED.—A  
20 court that imposed a sentence for a covered offense, may,  
21 on motion of the defendant, the Director of the Bureau  
22 of Prisons, the attorney for the Government, or the court,  
23 impose a reduced sentence as if sections 2 and 3 of the  
24 Fair Sentencing Act of 2010 were in effect at the time  
25 the covered offense was committed.



1 (b) DEFINITION OF COVERED OFFENSE.—In this  
2 section, the term “covered offense” means a violation of  
3 a Federal criminal statute, the statutory penalties for  
4 which were modified by section 2 or 3 of the Fair Sen-  
5 tencing Act of 2010 (Public Law 111–220; 124 Stat.  
6 2372), that was committed before August 3, 2010.

7 **SEC. 405. ELIGIBILITY FOR RESENTENCING BASED ON**  
8 **CHANGES IN LAW.**

9 Section 3582(c) of title 18, United States Code, is  
10 amended—

11 (1) by striking “and” at the end of paragraph  
12 (1);

13 (2) by striking the period at the end of para-  
14 graph (2) and inserting “; and”; and

15 (3) by adding at the end the following:

16 “(3) in the case of a defendant who was sen-  
17 tenced to a term of imprisonment for an offense for  
18 which the minimum or maximum term of imprison-  
19 ment was subsequently reduced as a result of the  
20 amendments made by the Sensenbrenner-Scott  
21 SAFE Justice Reinvestment Act of 2015, upon mo-  
22 tion of the defendant, counsel for the defendant,  
23 counsel for the Government, or the Director of the  
24 Bureau of Prisons, or, on its own motion, the court  
25 may reduce the term of imprisonment consistent

1 with that reduction, after considering the factors set  
2 forth in subsections (a) and (d) through (g) of sec-  
3 tion 3553 to the extent applicable. If the court does  
4 grant a sentence reduction, the reduced sentence  
5 shall not be less than permitted under current statu-  
6 tory law. If the court denies a motion made under  
7 this paragraph, the movant may file another motion  
8 under this subsection, not earlier than 5 years after  
9 each denial, which may be granted if the offender  
10 demonstrates the offender's compliance with recidi-  
11 vism-reduction programming or other efforts the of-  
12 fender has undertaken to improve the likelihood of  
13 successful re-entry and decrease any risk to public  
14 safety posed by the defendant's release.”.

15 **SEC. 406. DIRECTIVES TO THE SENTENCING COMMISSION.**

16 (a) **GENERALLY.**—Pursuant to its authority under  
17 section 994(p) of title 28, United States Code, and in ac-  
18 cordance with this section, the United States Sentencing  
19 Commission shall review and amend, if appropriate, its  
20 guidelines and its policy statements applicable to persons  
21 convicted of an offense under the Controlled Substances  
22 Act (21 U.S.C. 801 et seq.), the Controlled Substances  
23 Import and Export Act (21 U.S.C. 951 et seq.), or any  
24 offense deriving its penalties therefrom to ensure that the

1 guidelines and policy statements are consistent with the  
2 amendments made by this title.

3 (b) CONSIDERATIONS.—In carrying out this section,  
4 the United States Sentencing Commission shall con-  
5 sider—

6 (1) the mandate of the United States Sen-  
7 tencing Commission, under section 994(g) of title  
8 28, United States Code, to formulate the sentencing  
9 guidelines in such a way as to “minimize the likeli-  
10 hood that the Federal prison population will exceed  
11 the capacity of the Federal prisons”;

12 (2) the relevant public safety concerns;

13 (3) the intent of Congress that violent, repeat,  
14 and high-level drug traffickers who present public  
15 safety risks receive sufficiently severe sentences;

16 (4) the fiscal implications of any amendments  
17 or revisions to the sentencing guidelines or policy  
18 statements made by the United States Sentencing  
19 Commission; and

20 (5) the need to reduce and prevent racial dis-  
21 parities in Federal sentencing.

22 (c) GENERAL INSTRUCTION TO SENTENCING COM-  
23 MISSION.—Section 994(h) of title 28, United States Code,  
24 is amended to read as follows:

1       “(h) The Commission shall ensure that the guidelines  
2 specify a sentence to a term of imprisonment at or near  
3 the maximum term authorized for categories of defendants  
4 in which the defendant is 18 years old or older and—

5               “(1) has been convicted of a felony that is—

6                       “(A) a violent felony as defined in section  
7 924(e)(2)(B) of title 18; or

8                       “(B) an offense under—

9                               “(i) section 401 of the Controlled  
10 Substances Act;

11                               “(ii) section 1002(a), 1005, or 1009  
12 of the Controlled Substances Import and  
13 Export Act; or

14                               “(iii) chapter 705 of title 46, United  
15 States Code; and

16               “(2) has previously been convicted of two or  
17 more prior offenses, each of which is—

18                       “(A) classified by the applicable law of the  
19 relevant jurisdiction as a felony;

20                       “(B) is a felony as defined in section  
21 102(13); and

22                       “(C)(i) a violent felony as defined in sec-  
23 tion 924(e)(2)(B) of title 18; or

1           “(ii) a felony drug offense as defined in  
2           section 102(44) of the Controlled Substances  
3           Act.”.

4   **Subtitle B—Expanding the Ability**  
5   **To Apply for Compassionate Re-**  
6   **lease**

7   **SEC. 411. ABILITY TO PETITION FOR RELEASE TO EX-**  
8           **TENDED SUPERVISION FOR CERTAIN PRIS-**  
9           **ONERS WHO ARE MEDICALLY INCAPACI-**  
10          **TATED, GERIATRIC, OR CAREGIVER PARENTS**  
11          **OF MINOR CHILDREN AND WHO DO NOT**  
12          **POSE PUBLIC SAFETY RISKS.**

13       (a) ELIGIBILITY.—Subparagraph (A) of section  
14 3582(c)(1) of title 18, United States Code, is amended  
15 to read as follows:

16           “(A) the court, upon motion of the defend-  
17           ant, the Director of the Bureau of Prisons, or  
18           on its own motion, may reduce the term of im-  
19           prisonment after considering the factors set  
20           forth in section 3553(a) to the extent they are  
21           applicable, if it finds that—

22                   “(i) extraordinary and compelling rea-  
23                   sons warrant such a reduction; or

24                   “(ii) the defendant—

25                           “(I) is at least 60 years of age;

1                   “(II) has an extraordinary health  
2                   condition; or

3                   “(III) has been notified that—

4                   “(aa) the primary caregiver  
5                   of the defendant’s biological or  
6                   adopted child under the age of 18  
7                   has died or has become medi-  
8                   cally, mentally, or psychologically  
9                   incapacitated;

10                   “(bb) is unable to care for  
11                   the child any longer; and

12                   “(cc) other family members  
13                   or caregivers are unable to care  
14                   for the child, such that the child  
15                   is at risk of being placed in the  
16                   foster care system; and”.

17           (b) INELIGIBILITY AND PROCEDURE.—Section 3582  
18 of title 18, United States Code, is amended by adding at  
19 the end the following:

20           “(e) INELIGIBILITY.—No prisoner is eligible for a  
21 modification of sentence under subsection (c)(1)(A) if the  
22 prisoner is serving a sentence of imprisonment for any of  
23 the following offenses:

24                   “(1) A Federal conviction for homicide in which  
25                   the prisoner was proven beyond a reasonable doubt

1 to have had the intent to cause death and death re-  
2 sulted.

3 “(2) A Federal crime of terrorism, as defined  
4 under section 2332b(g)(5).

5 “(3) A Federal sex offense, as described in sec-  
6 tion 111 of the Sex Offender Registration and Noti-  
7 fication Act (42 U.S.C. 16911).

8 “(f) REQUIREMENTS FOR CERTAIN MOTIONS.—If  
9 the prisoner makes a motion under subsection (c)(1)(A)  
10 on the basis of an extraordinary health condition or the  
11 death or incapacitation of the primary caregiver of the  
12 prisoner’s minor child, that prisoner shall provide docu-  
13 mentation, as the case may be—

14 “(1) setting forth a relevant diagnosis regard-  
15 ing the extraordinary health condition; or

16 “(2) that—

17 “(A) the requirements of subsection  
18 (c)(1)(A)(ii)(III) are met; and

19 “(B) the prisoner’s release—

20 “(i) is in the best interest of the child;

21 and

22 “(ii) would not endanger public safety.

23 “(g) PROCEDURE FOR COURT DETERMINATION.—(1)  
24 Upon receipt of a prisoner’s motion under subsection  
25 (c)(1)(A), the court, after obtaining relevant contact infor-

1 mation from the Attorney General, shall send notice of the  
2 motion to the victim or victims, or appropriate surviving  
3 relatives of a deceased victim, of the crime committed by  
4 the prisoner. The notice shall inform the victim or victims  
5 or surviving relatives of a deceased victim of how to pro-  
6 vide a statement prior to a determination by the court on  
7 the motion.

8 “(2) Not later than 60 days after receiving a pris-  
9 oner’s motion for modification under subsection (c)(1)(A),  
10 the court shall hold a hearing on the motion if the motion  
11 has not been granted.

12 “(3) The court shall grant the modification under  
13 subsection (c)(1)(A) if the court determines that—

14 “(A) the prisoner meets the criteria pursuant to  
15 section (c)(1)(A); and

16 “(B) there is a low likelihood that the prisoner  
17 will pose a risk to public safety.

18 “(4) In determining a prisoner’s motion for a modi-  
19 fication of sentence under subsection (c)(1)(A) the court  
20 shall consider the following:

21 “(A) The age of the prisoner and years served  
22 in prison.

23 “(B) The criminogenic needs and risk factors of  
24 the offender.

25 “(C) The prisoner’s behavior in prison.



1           “(D) An evaluation of the prisoner’s community  
2           and familial bonds.

3           “(E) An evaluation of the prisoner’s health.

4           “(F) A victim statement, if applicable, pursuant  
5           to paragraph (1).

6           “(h) ACTIONS WITH RESPECT TO SUCCESSFUL MO-  
7           TION.—If the court grants the prisoner’s motion pursuant  
8           to subsection (c)(1)(A), the court shall—

9           “(1) reduce the term of imprisonment for the  
10          prisoner in a manner that provides for the release of  
11          the prisoner not later than 30 days after the date  
12          on which the prisoner was approved for sentence  
13          modification;

14          “(2) modify the remainder of the term of im-  
15          prisonment to home confinement or residential re-  
16          entry confinement with or without electronic moni-  
17          toring; or

18          “(3) lengthen or impose a term of supervised  
19          release so that it expires on the same date as if the  
20          defendant received no relief under subsection  
21          (c)(1)(A).

22          “(i) SUBSEQUENT MOTIONS.—If the court denies a  
23          prisoner’s motion pursuant to subsection (c)(1)(A), the  
24          prisoner may not file another motion under subsection  
25          (c)(1)(A) earlier than one year after the date of denial.

1 If the court denies the motion due to incorrect legal con-  
2 clusions or facts or other mistakes by the court, probation  
3 officer, or counsel, the prisoner may file another motion  
4 under that subsection without regard to this limitation.

5 “(j) DEFINITION.—In this section, the term ‘extraor-  
6 dinary health conditions’ means a condition afflicting a  
7 person, such as infirmity, significant disability, or a need  
8 for advanced medical treatment or services not readily or  
9 reasonably available within the correctional institution.”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section take effect 1 year after the date of the enact-  
12 ment of this Act.

13 **Subtitle C—Clarification of Con-**  
14 **gressional Intent on Certain Re-**  
15 **cidivist Penalties**

16 **SEC. 421. AMENDMENTS TO ENHANCED PENALTIES PROVI-**  
17 **SION.**

18 Section 924(c) of title 18, United States Code, is  
19 amended—

20 (1) in paragraph (1)(C), by striking, “In the  
21 case of a second or subsequent conviction under this  
22 subsection” and inserting “If a person is convicted  
23 under this subsection after a prior conviction under  
24 this subsection has become final”; and

25 (2) by adding at the end the following:

1       “(6) In this subsection, the term ‘during and in rela-  
 2       tion to’ does not include any possession not on the person  
 3       of, or within arm’s reach and otherwise readily and imme-  
 4       diately accessible to the defendant at the time and place  
 5       of the offense.”.

6       **TITLE V—IMPLEMENTING EVI-**  
 7       **DENCE-BASED PRACTICES TO**  
 8       **REDUCE RECIDIVISM**

9       **Subtitle A—Revision of Statutory**  
 10       **Sentence Credits**

11       **SEC. 501. DELIVERY AND INCENTIVES TO COMPLETE IN-**  
 12       **PRISON RECIDIVISM REDUCTION PROGRAM-**  
 13       **MING.**

14       (a) IN GENERAL.—Section 3621(e) of title 18,  
 15       United States Code, is amended to read as follows:

16       “(e) IN-PRISON PROGRAMMING.—

17       “(1) IN-PRISON PROGRAMMING.—In order to  
 18       carry out the requirement of subsection (b) that  
 19       every prisoner with a substance abuse problem have  
 20       the opportunity to participate in appropriate sub-  
 21       stance abuse treatment, and to address the  
 22       criminogenic needs of Federal offenders more gen-  
 23       erally, the Director of the Bureau of Prisons shall,  
 24       subject to the availability of appropriations—

1           “(A) provide residential substance abuse  
2 treatment for all eligible offenders, with priority  
3 for such treatment accorded based on eligible  
4 prisoners’ proximity to release date;

5           “(B) provide cognitive-based therapy for  
6 all eligible offenders;

7           “(C) provide workforce development  
8 through participation in the Federal Prison In-  
9 dustries; and

10           “(D) provide vocational and occupational  
11 training.

12           “(2) INCENTIVES FOR PRISONER’S SUCCESSFUL  
13 COMPLETION OF PROGRAMMING.—

14           “(A) Any prisoner who in the judgment of  
15 the Director of the Bureau of Prisons has suc-  
16 cessfully completed a program of residential  
17 substance abuse treatment or cognitive behav-  
18 ioral therapy provided under paragraph (1) of  
19 this subsection, shall be eligible for a reduction  
20 of incarceration by up to one year.

21           “(B) Any prisoner who, in the judgment of  
22 the Director of the Bureau of Prisons, has com-  
23 pleted at least 30 days of work for Federal  
24 Prison Industries or vocational and occupa-  
25 tional training shall be eligible to have the total

1 period of incarceration reduced by up to the  
2 total number of days of work for Federal Pris-  
3 on Industries or vocational and occupational  
4 training, but not to exceed one year.

5 “(3) RESTRICTIONS ON REDUCTIONS IN THE  
6 PERIOD OF CUSTODY.—Reductions in the period of  
7 incarceration earned under paragraph (2) of this  
8 subsection shall not exceed one year.”.

9 (b) CORRESPONDING AMENDMENTS TO EXISTING  
10 LAW.—Section 3624(a) of title 18, United States Code,  
11 is amended by striking “as provided in subsection (b)”  
12 and inserting “as provided in subsection (b) and section  
13 3621(e) and section 3621A(f)(3)”.

14 (c) TRANSITION.—The amendments made by this  
15 section shall take effect on the date not later than 1 year  
16 after the date of the enactment of this section.

17 **SEC. 502. POSTSENTENCING RISK AND NEEDS ASSESSMENT**  
18 **SYSTEM AND IN-PRISON RECIDIVISM REDUC-**  
19 **TION PROGRAMMING.**

20 (a) DEVELOPMENT OF SYSTEM.—

21 (1) GENERALLY.—Not later than one year after  
22 the date of the enactment of this section, the Attor-  
23 ney General shall develop an offender risk and needs  
24 assessment system, which shall—

1 (A) assess and determine the criminogenic  
2 needs and risk factors of all admitted offenders;

3 (B) be used to assign each prisoner to ap-  
4 propriate recidivism reduction programs or pro-  
5 ductive activities based on the prisoner's spe-  
6 cific criminogenic needs and risk factors; and

7 (C) in accordance with section 3621(f) of  
8 title 18, United States Code, document eligible  
9 prisoners' required recidivism reduction pro-  
10 grams or productive activities in a case plan  
11 and their progress in completing the elements  
12 of that case plan.

13 (2) RESEARCH AND BEST PRACTICES.—In de-  
14 signing the Assessment System, the Attorney Gen-  
15 eral shall use available research and best practices in  
16 the field and consult with academic and other crimi-  
17 nal justice experts as appropriate.

18 (3) RISK AND NEEDS ASSESSMENT TOOL.—In  
19 carrying out this subsection, the Attorney General  
20 shall prescribe a suitable intake assessment tool to  
21 be used in carrying out subparagraphs (A) and (B)  
22 of paragraph (1), and suitable procedures to com-  
23 plete the documentation described in subparagraph  
24 (C) of paragraph (1). The Attorney General shall  
25 ensure that the assessment tool produces consistent

1 results when administered by different people, in  
2 recognition of the need to ensure interrater reli-  
3 ability.

4 (4) VALIDATION.—In carrying out this sub-  
5 section, the Attorney General shall statistically vali-  
6 date the assessment tool on the Federal prison popu-  
7 lation not later than 2 years after the date of the  
8 enactment of this subsection.

9 (b) USE OF RISK AND NEEDS ASSESSMENT SYSTEM  
10 BY BUREAU OF PRISONS.—Subchapter C of chapter 229  
11 of title 18, United States Code, is amended by inserting  
12 after section 3621 the following:

13 **“§ 3621A. Postsentencing risk and needs assessment**  
14 **system**

15 “(a) ASSIGNMENT OF RECIDIVISM REDUCTION PRO-  
16 GRAMS OR PRODUCTIVE ACTIVITIES.—In recognition that  
17 some activities or excessive programming may be counter-  
18 productive for some prisoners, the Attorney General may  
19 provide guidance to the Director of the Bureau of Prisons  
20 on the quality and quantity of recidivism reduction pro-  
21 gramming or productive activities that are both appro-  
22 priate and effective for each prisoner.

23 “(b) BUREAU OF PRISONS TRAINING.—The Attorney  
24 General shall develop protocols and programs for Bureau  
25 of Prisons personnel responsible for using the Post-Sen-

1 tencing Risk and Needs Assessment System (hereinafter  
2 in the section referred to as the ‘Assessment System’) cre-  
3 ated under the Sensenbrenner-Scott SAFE Justice Rein-  
4 vestment Act of 2015. Such training protocols shall in-  
5 clude a requirement that such personnel demonstrate com-  
6 petence in administering the assessment tool, including  
7 interrater reliability, on a biannual basis.

8       “(c) QUALITY ASSURANCE.—In order to ensure that  
9 the Director of the Bureau of Prisons is using the Assess-  
10 ment System in an appropriate and consistent manner,  
11 the Attorney General, the Government Accountability Of-  
12 fice, and the Office of the Inspector General shall monitor  
13 and assess the use of the Assessment System and shall  
14 conduct separate and independent periodic audits of the  
15 use of the Assessment System at Bureau of Prisons facili-  
16 ties.

17       “(d) EVIDENCE-BASED ASSESSMENT SYSTEM AND  
18 RECIDIVISM REDUCTION PROGRAMMING.—

19               “(1) IN GENERAL.—The Director of the Bureau  
20 of Prisons shall develop a case plan that targets the  
21 criminogenic needs and risk factors of each eligible  
22 prisoner—

23                       “(A) to guide the prisoner’s rehabilitation  
24 while incarcerated; and



1           “(B) to reduce the likelihood of recidivism  
2 after release.

3           “(2) CASE PLANS.—

4           “(A) CONTENT.—Not later than 30 days  
5 after a prisoner’s initial admission, the Director  
6 of the Bureau of Prisons shall complete a case  
7 plan for that prisoner. The plan shall—

8           “(i) include programming and treat-  
9 ment requirements based on the prisoner’s  
10 identified criminogenic needs and risk fac-  
11 tors, as determined by the assessment sys-  
12 tem;

13           “(ii) ensure that a prisoner whose  
14 criminogenic needs and risk factors do not  
15 warrant recidivism reduction programming  
16 participates in and successfully complies  
17 with productive activities, including prison  
18 jobs; and

19           “(iii) ensure that each eligible pris-  
20 oner participates in and successfully com-  
21 plies with recidivism reduction program-  
22 ming or productive activities, including  
23 prison jobs, throughout the entire term of  
24 incarceration of the prisoner.

1           “(B) TIME CONSTRAINTS.—The Director  
2 of the Bureau of Prisons shall ensure that the  
3 requirements set forth in the case plan are fea-  
4 sible and achievable prior to the prisoner’s re-  
5 lease eligibility date.

6           “(C) NOTICE TO PRISONER.—The Director  
7 of the Bureau of Prisons shall—

8                   “(i) provide the prisoner with a writ-  
9 ten copy of the case plan and require the  
10 prisoner’s case manager to explain the con-  
11 ditions set forth in the case plan and the  
12 incentives for successful compliance with  
13 the case plan; and

14                   “(ii) review the case plan with the  
15 prisoner once every 6 months after the  
16 prisoner receives the case plan to assess  
17 the prisoner’s progress toward successful  
18 compliance with the case plan and any  
19 need or eligibility for additional or dif-  
20 ferent programs or activities.

21           “(3) INCENTIVE FOR PRISONER’S SUCCESSFUL  
22 COMPLIANCE WITH CASE PLAN REQUIREMENTS.—

23                   “(A) IN GENERAL.—Except as provided in  
24 subparagraph (C), the Director of the Bureau  
25 of Prisons shall, in addition to any other credit

1 or reduction a prisoner receives under any other  
2 provision of law, award earned time credit to-  
3 ward service of the prisoner’s sentence of 10  
4 days for each calendar month of successful  
5 compliance with the prisoner’s case plan. A  
6 prisoner who is detained before sentencing shall  
7 earn credit for participating in programs or ac-  
8 tivities during that period under this para-  
9 graph. The total time credits that a prisoner  
10 may earn under this paragraph shall not exceed  
11 120 days for any year of imprisonment. A pris-  
12 oner may receive credit at the end of each year  
13 of the sentence being served, beginning at the  
14 end of the first year of the sentence. For pur-  
15 poses of this section, the first year of the sen-  
16 tence shall begin on the date the sentence com-  
17 menced under section 3585(a) less any credit  
18 for prior custody under section 3585(b). Any  
19 credits awarded under this section shall vest on  
20 the date the prisoner is released from custody.

21 “(B) AVAILABILITY.—An eligible prisoner  
22 may receive under subparagraph (A) credit for  
23 successful compliance with case plan require-  
24 ments for participating in programs or activities  
25 before the date of enactment of this Act if the

1 Director of the Bureau of Prisons determines  
2 that such programs or activities were the same  
3 or equivalent to those created pursuant to this  
4 section before the date of the enactment of this  
5 subsection.

6 “(C) EXCLUSIONS.—No credit shall be  
7 awarded under this subparagraph to any pris-  
8 oner serving a sentence of imprisonment for  
9 conviction for any of the following offenses:

10 “(i) A Federal conviction for homicide  
11 in which the prisoner was proven beyond a  
12 reasonable doubt to have had the intent to  
13 cause death and death resulted.

14 “(ii) A Federal crime of terrorism, as  
15 defined under section 2332b(g)(5).

16 “(iii) A Federal sex offense, as de-  
17 scribed in section 111 of the Sex Offender  
18 Registration and Notification Act.

19 “(D) PARTICIPATION BY INELIGIBLE PRIS-  
20 ONERS.—The Director of the Bureau of Prisons  
21 shall make all reasonable efforts to ensure that  
22 every prisoner participates in recidivism reduc-  
23 tion programming or productive activities, in-  
24 cluding a prisoner who is excluded from earning  
25 time credits.

1           “(E) OTHER INCENTIVES.—The Director  
2 of the Bureau of Prisons shall develop policies  
3 to provide appropriate incentives for successful  
4 compliance with case plan requirements, in ad-  
5 dition to the earned time credit described in  
6 subparagraph (A), including incentives for pris-  
7 oners who are precluded from earning credit  
8 under subparagraph (C). Such incentives may  
9 include additional commissary, telephone, or  
10 visitation privileges for use with family, close  
11 friends, mentors, and religious leaders.

12           “(F) PENALTIES.—The Director of the  
13 Bureau of Prisons shall amend its Inmate Dis-  
14 cipline Program to reduce credits previously  
15 earned under subparagraph (A) for prisoners  
16 who violate the rules of the institution in which  
17 the prisoner is imprisoned, a recidivism reduc-  
18 tion program, or a productive activity, which  
19 shall provide—

20                   “(i) levels of violations and cor-  
21                   responding penalties, which may include  
22                   loss of earned time credits;

23                   “(ii) that any loss of earned time  
24                   credits shall not apply to future earned

1 time credits that the prisoner may earn  
2 subsequent to a rule violation; and

3 “(iii) a procedure to restore earned  
4 time credits that were lost as a result of a  
5 rule violation based on the prisoner’s indi-  
6 vidual progress after the date of the rule  
7 violation.

8 “(4) RECIDIVISM REDUCTION PROGRAMMING  
9 AND PRODUCTIVE ACTIVITIES.—Beginning not later  
10 than one year after the date of the enactment of the  
11 Sensenbrenner-Scott SAFE Justice Reinvestment  
12 Act of 2015, the Attorney General, shall, subject to  
13 the availability of appropriations, make available to  
14 all eligible prisoners appropriate recidivism reduction  
15 programming or productive activities, including pris-  
16 on jobs. The Attorney General may provide such  
17 programming and activities by entering into partner-  
18 ships with any of the following:

19 “(A) Nonprofit organizations, including  
20 faith-based and community-based organizations  
21 that provide recidivism reduction programming,  
22 on a paid or volunteer basis.

23 “(B) Educational institutions that will de-  
24 liver academic classes in Bureau of Prisons fa-  
25 cilities, on a paid or volunteer basis.

1           “(C) Private entities that will, on a paid or  
2 volunteer basis—

3                   “(i) deliver occupational and voca-  
4 tional training and certifications in Bureau  
5 of Prisons facilities;

6                   “(ii) provide equipment to facilitate  
7 occupational and vocational training or em-  
8 ployment opportunities for prisoners;

9                   “(iii) employ prisoners; or

10                   “(iv) assist prisoners in prerelease  
11 custody or supervised release in finding  
12 employment.

13           “(e) DEFINITIONS.—In this section the following  
14 definitions apply:

15                   “(1) CASE PLAN.—The term ‘case plan’ means  
16 an individualized, documented accountability and be-  
17 havior change strategy developed by the Director of  
18 the Bureau of Prisons to prepare offenders for re-  
19 lease and successful reentry into the community.  
20 The case plan shall focus on the offender’s  
21 criminogenic needs and risk factors that are associ-  
22 ated with the risk of recidivism.

23                   “(2) CRIMINOGENIC NEEDS AND RISK FAC-  
24 TORS.—The term ‘criminogenic needs and risk fac-  
25 tors’ means characteristics and behaviors that are

1 associated with the risk of committing crimes and  
2 that when addressed through evidence-based pro-  
3 gramming are diminished. These factors include but  
4 are not limited to—

5 “(A) criminal thinking;

6 “(B) criminal associates;

7 “(C) antisocial behavior and personality;

8 “(D) dysfunctional family;

9 “(E) low levels of employment;

10 “(F) low levels of education;

11 “(G) substance abuse;

12 “(H) mental health issues or cognitive  
13 deficits; and

14 “(I) poor use of leisure time.

15 “(3) DYNAMIC RISK FACTOR.—The term ‘dy-  
16 namic risk factor’ means a characteristic or at-  
17 tribute that has been shown to be associated with  
18 risk of recidivism and that can be modified based on  
19 a prisoner’s actions, behaviors, or motives, including  
20 through completion of appropriate programming or  
21 other means in a prison setting.

22 “(4) ELIGIBLE PRISONER.—The term ‘eligible  
23 prisoner’ means—



1           “(A) a prisoner serving a sentence of  
2           incarceration for conviction of a Federal  
3           offense; but

4           “(B) does not include any prisoner  
5           who the Bureau of Prisons determines—

6                   “(i) would present a danger to  
7                   himself or others if permitted to par-  
8                   ticipate in recidivism reduction pro-  
9                   gramming; or

10                   “(ii) is serving a sentence of in-  
11                   carceration of less than 1 month.

12           “(5) PRODUCTIVE ACTIVITY.—The term ‘pro-  
13           ductive activity’ means a group or individual activ-  
14           ity, including holding a job as part of a prison work  
15           program, that is designed to allow prisoners whose  
16           criminogenic needs and risk factors do not warrant  
17           recidivism reduction programming.

18           “(6) RECIDIVISM REDUCTION PROGRAM.—The  
19           term ‘recidivism reduction program’ means a group  
20           or individual activity that—

21                   “(A) is of a kind that has been shown em-  
22                   pirically to reduce recidivism or promote suc-  
23                   cessful reentry; and

24                   “(B) may include—

25                           “(i) substance abuse treatment;

- 1                   “(ii) classes on social learning and life  
2                   skills;  
3                   “(iii) classes on morals or ethics;  
4                   “(iv) academic classes;  
5                   “(v) cognitive behavioral treatment;  
6                   “(vi) mentoring;  
7                   “(vii) occupational and vocational  
8                   training;  
9                   “(viii) faith-based classes or services;  
10                  and  
11                  “(ix) victim-impact classes or restora-  
12                  tive justice programs.

13                  “(7) RECIDIVISM RISK.—The term ‘recidivism  
14                  risk’ means the likelihood that a prisoner will com-  
15                  mit additional crimes for which the prisoner could be  
16                  prosecuted in a Federal, State, or local court in the  
17                  United States.

18                  “(8) RECOVERY PROGRAMMING.—The term ‘re-  
19                  covery programming’ means a course of instruction  
20                  or activities that has been demonstrated to reduce  
21                  substance abuse or dependence among participants,  
22                  or to promote recovery among individuals who have  
23                  substance abuse issues.

24                  “(9) RELEASE ELIGIBILITY DATE.—The term  
25                  ‘release eligibility date’ means the earliest date at

1 which the offender could be released after accruing  
2 the maximum number of earned time credits for  
3 which the offender is eligible.

4 “(10) SUCCESSFUL COMPLIANCE.—The term  
5 ‘successful compliance’ means that the person in  
6 charge of the Bureau of Prisons penal or correc-  
7 tional facility or that person’s designee has deter-  
8 mined that the eligible prisoner, to the extent prac-  
9 ticable, and excusing any medical or court-related  
10 absences satisfied the following requirements for not  
11 less than 30 days:

12 “(A) Regularly attended and actively par-  
13 ticipated in appropriate recidivism reduction  
14 programs or productive activities, as set forth  
15 in the eligible prisoner’s case plan.

16 “(B) Did not regularly engage in disrup-  
17 tive activity that seriously undermined the ad-  
18 ministration of a recidivism reduction program  
19 or productive activity.

20 “(11) EARNED TIME CREDITS.—The term  
21 ‘earned time credits’ means credit toward service of  
22 the prisoner’s sentence as described in subsection  
23 (f)(3).”.

24 (c) CLERICAL AMENDMENT.—The table of sections  
25 at the beginning of subchapter C of chapter 229 of title

1 18, United States Code, is amended by inserting after the  
2 item relating to section 3621 the following:

“3621A. Postsentencing risk and needs assessment system.”.

3 **Subtitle B—Training and Oversight**  
4 **of Mental Health and Substance**  
5 **Abuse Treatment**

6 **SEC. 511. MENTAL HEALTH AND DE-ESCALATION TRAINING.**

7 (a) IN GENERAL.—Not later than 1 year after the  
8 date of the enactment of this Act, the Attorney General  
9 shall, in consultation with the Substance Abuse and Men-  
10 tal Health Services Administration, and subject to the  
11 availability of appropriations, provide to criminal justice  
12 agencies specialized and comprehensive training in proce-  
13 dures to de-escalate encounters between law enforcement  
14 or corrections officers and civilians, inmates, or detainees,  
15 and to identify and appropriately respond to incidents in  
16 which the unique needs of individuals who have a mental  
17 illness or cognitive deficit are involved.

18 (b) DEFINITION OF CRIMINAL JUSTICE AGENCIES.—  
19 In this section the term “criminal justice agencies” in-  
20 clude—

21 (1) Federal corrections agencies and any con-  
22 tractors carrying out corrections functions;

23 (2) Federal law enforcement agencies, including  
24 Federal prosecutors; and

1           (3) other Federal criminal justice agencies that  
2           the Attorney General deems appropriate.

3 **SEC. 512. AUTHORIZING GRANTS TO STATES FOR THE USE**  
4                   **OF MEDICATION-ASSISTED TREATMENT FOR**  
5                   **HEROIN, OPIOID, OR ALCOHOL ABUSE IN**  
6                   **RESIDENTIAL SUBSTANCE ABUSE TREAT-**  
7                   **MENT.**

8           (a) IN GENERAL.—Section 1904 of the Omnibus  
9 Crime Control and Safe Streets Act of 1968 (42 U.S.C.  
10 3796ff–3) is amended—

11           (1) in subsection (d), by striking “pharma-  
12           cological treatment” and inserting “pharmacological  
13           treatment or medication assisted treatment not sub-  
14           ject to diversion”; and

15           (2) by adding at the end the following:

16           “(e) DEFINITIONS.—In this section—

17           “(1) the term ‘medication assisted treatment’  
18           means the use of medications approved by the Food  
19           and Drug Administration, in combination with coun-  
20           seling or behavioral therapies, to treat heroin, opioid,  
21           or alcohol addiction; and

22           “(2) the term ‘opioid’ means any chemical that  
23           binds to an opioid receptor and resembles opiates in  
24           its pharmacological effects.”.

1 (b) REPORT ON MEDICATION ASSISTED TREATMENT  
2 FOR OPIOID AND HEROIN ABUSE PILOT PROGRAM.—The  
3 Director of the Bureau of Prisons shall submit within 90  
4 days of enactment of this Act to the Committees on the  
5 Judiciary and Appropriations of the Senate and House of  
6 Representatives a report and evaluation of the current  
7 pilot program within the Bureau of Prisons to treat heroin  
8 and opioid abuse through medication assisted treatment.  
9 The report shall include a description of plans to expand  
10 access to medication assisted treatment for heroin and  
11 opioid abuse for Federal prisoners in appropriate cases.

12 (c) REPORT ON THE AVAILABILITY OF MEDICATION  
13 ASSISTED TREATMENT FOR OPIOID AND HEROIN  
14 ABUSE.—Within 90 days after the date of the enactment  
15 of this Act, the Director of the Administrative Office of  
16 the United States Courts shall submit a report to the  
17 Committees on the Judiciary and Appropriations of the  
18 Senate and the House of Representatives assessing the  
19 availability of and capacity for the provision of medication  
20 assisted treatment for opioid and heroin abuse among  
21 treatment-service providers serving Federal offenders  
22 under supervised release and including a description of  
23 plans to expand access to medication assisted treatment  
24 that is not subject to diversion for heroin and opioid abuse

1 whenever appropriate among Federal offenders under su-  
2 pervised release.

3 **SEC. 513. PERFORMANCE-BASED CONTRACTING FOR RESI-**  
4 **DENTIAL REENTRY CENTERS.**

5 (a) IN GENERAL.—The Director of the Bureau of  
6 Prisons shall—

7 (1) revise its policies and procedures related to  
8 contracting with providers of Residential Reentry  
9 Centers to—

10 (A) meet the standards of performance-  
11 based contracting; and

12 (B) include, among the standards of per-  
13 formance—

14 (i) a reduction in the recidivism rate  
15 of offenders transferred to the Residential  
16 Reentry Center; and

17 (ii) an annual evaluation of these out-  
18 comes;

19 (2) require that new or renewed contracts with  
20 providers of Residential Reentry Centers meet the  
21 standards of performance-based contracting;

22 (3) review existing contracts with providers of  
23 Residential Reentry Centers prior to renewal and  
24 update as necessary to reflect the standards of per-  
25 formance-based contracting; and

1           (4) ensure performance-based contracts are ac-  
2           tively managed to meet the standards of perform-  
3           ance-based contracting.

4           (b) EXCEPTIONS.—In those cases where it would not  
5           be cost effective to use performance-based contracting  
6           standards, the Director of the Bureau of Prisons shall pro-  
7           vide an explanation for this determination to the Attorney  
8           General, who may exempt a contract from the require-  
9           ments outlined in subsection (a)(2). Each exemption must  
10          be approved in writing by the Attorney General before the  
11          Director of the Bureau of Prisons enters into the contract.

12          (c) DEFINITIONS.—In this section the following defi-  
13          nitions apply:

14               (1) PERFORMANCE-BASED CONTRACTING.—The  
15               term “performance-based contracts” means con-  
16               tracts that accomplish the following:

17                       (A) Identify expected deliverables, perform-  
18                       ance measures, or outcomes; and render pay-  
19                       ment contingent upon the successful delivery of  
20                       those expected deliverables, performance meas-  
21                       ures or outcomes.

22                       (B) Include a quality assurance plan that  
23                       describes how the contractor’s performance will  
24                       be measured against the expected deliverables,  
25                       performance measures, or outcomes.



1           (C) Include positive and negative incentives  
2           tied to the quality assurance plan measure-  
3           ments.

4           (2) RECIDIVISM RATE.—The term “recidivism  
5           rate” refers to the number and percentage of offend-  
6           ers who are arrested for a new crime or commit a  
7           technical violation of the terms of supervision that  
8           results in revocation to prison during the period in  
9           which the offender is in the Residential Reentry  
10          Center.

11          (3) RESIDENTIAL REENTRY CENTERS.—The  
12          term “Residential Reentry Centers” means privately  
13          run centers which provide housing to Federal pris-  
14          oners who are nearing release.

15          (d) DEADLINE FOR CARRYING OUT SECTION.—The  
16          Director of the Bureau of Prisons shall complete initial  
17          compliance with the requirements of this section not later  
18          than 1 year after the date of the enactment of this Act.

19          (e) EVALUATION.—Not later than 2 years after the  
20          date of the enactment of this Act, the Government Ac-  
21          countability Office and Office of the Inspector General of  
22          the Department of Justice shall each issue a report on  
23          the progress made by the Director of the Bureau of Pris-  
24          ons in implementing this section.

1 **Subtitle C—Implementing Swift,**  
2 **Certain, and Proportionate**  
3 **Sanctions for Violations of Con-**  
4 **ditions of Probation or Super-**  
5 **vised Release**

6 **SEC. 521. GRADUATED SANCTIONING SYSTEM.**

7 (a) IN GENERAL.—Not later than 1 year after the  
8 date of the enactment of this section, the United States  
9 Probation and Pretrial Services and the Criminal Law  
10 Committee of the Judicial Conference shall develop a  
11 standardized graduated sanctioning system (hereinafter in  
12 this section referred to as the “system”), to guide proba-  
13 tion officers in determining suitable sanctions in response  
14 to technical violations of supervision. The United States  
15 Sentencing Commission shall publish these factors and  
16 amend its guidelines and policy statements so that they  
17 are consistent. The system shall—

18 (1) provide a range of possible sanctions, from  
19 less severe to more severe; and

20 (2) allow officers to respond quickly to technical  
21 violations of supervision.

22 (b) DEVELOPMENT OF GRADUATED SANCTIONING  
23 SYSTEM.—In designing the graduated sanctioning system,  
24 the United States Probation and Pretrial Services and the  
25 Criminal Law Committee of the Judicial Conference shall

1 use available research and best evidence-based practices  
2 in the field, and shall consult with other stakeholders, in-  
3 cluding current trial attorneys from the Department of  
4 Justice and a Federal public or community defender from  
5 the Defender Services Advisory Group.

6 (c) CONTENT OF GRADUATED SANCTIONING SYS-  
7 TEM.—

8 (1) Graduated sanctions may include—

9 (A) verbal warnings;

10 (B) increased reporting requirements;

11 (C) curfew requirements;

12 (D) electronic monitoring;

13 (E) increased substance abuse testing or  
14 treatment;

15 (F) mental health counseling or treatment;

16 (G) behavioral therapy or anger manage-  
17 ment;

18 (H) community service; and

19 (I) loss of earned discharge credits pursu-  
20 ant to section 3610.

21 (2) In determining appropriate sanctions, the  
22 United States Probation and Pretrial Services and  
23 the Criminal Law Committee of the Judicial Com-  
24 mittee shall consider—

25 (A) the severity of the current violation;

1 (B) the number and severity of previous  
2 supervision violations;

3 (C) the rehabilitative options available; and

4 (D) the costs of incarceration.

5 (d) PROBATION AND PRETRIAL SERVICES TRAIN-  
6 ING.—The Criminal Law Committee of the Judicial Con-  
7 ference and the United States Probation and Pretrial  
8 Services shall develop training protocols for staff respon-  
9 sible for recommending graduated sanctions, which shall  
10 include—

11 (1) initial training to educate staff and judges  
12 on how to use the graduated sanctioning system, as  
13 well as an overview of the relevant research regard-  
14 ing supervision practices shown to reduce recidivism  
15 and improve offender outcomes;

16 (2) continuing education; and

17 (3) periodic training updates.

18 (e) CONTINUOUS QUALITY IMPROVEMENT.—In order  
19 to ensure that the United States Probation and Pretrial  
20 Services is using graduated sanctions in an appropriate  
21 and consistent manner, the Judicial Conference shall—

22 (1) establish performance benchmarks and per-  
23 formance assessments for probation officers, proba-  
24 tion supervisors, and probation and pretrial services;  
25 and



1           “(1) NOTICE OF GRADUATED SANCTIONS.—

2           Upon determining that a technical violation of su-  
3           pervision warrants an alternative to arrest or incar-  
4           ceration, a probation officer, with the concurrence of  
5           that officer’s probation supervisor, shall serve on the  
6           supervisee a Notice of Graduated Sanctions, which  
7           shall include—

8                   “(A) a description of the violation of su-  
9                   pervision;

10                   “(B) an appropriate graduated sanction or  
11                   sanctions to be imposed, as determined under  
12                   the graduated sanctioning system;

13                   “(C) an inquiry whether the supervisee  
14                   wishes to waive the supervisee’s right to a rev-  
15                   ocation or modification proceeding under the  
16                   Federal Rules of Criminal Procedures; and

17                   “(D) notice of the person’s right to retain  
18                   counsel or to requested the counsel be ap-  
19                   pointed if the person cannot afford to obtain  
20                   counsel.

21           “(2) EFFECT OF SUPERVISEE ELECTIONS  
22           AFTER NOTICE.—If the supervisee admits to the al-  
23           leged violation of supervision, agrees to waive the  
24           right to a revocation or modification hearing, and  
25           agrees in writing to submit to the graduated sanc-

1       tion or sanctions as set forth in the Notice of Grad-  
2       uated Sanctions, the specified sanction shall imme-  
3       diately be imposed. If the supervisee does not admit  
4       to the alleged violation, does not agree to waive the  
5       right to the revocation or modification hearing, does  
6       not agree to submit to the specified sanction or  
7       sanctions, or if the supervisee fails to complete the  
8       graduated sanction or sanctions to the satisfaction  
9       of the probation officer and that officer’s supervisor,  
10      then the probation officer may commence super-  
11      vision revocation or modification proceedings.

12      “(c) DEFINITIONS.—In this section:

13           “(1) CRIMINOGENIC RISK AND NEEDS FAC-  
14      TORS.—The term ‘criminal risk and needs factors’  
15      means the characteristics and behaviors that are as-  
16      sociated with the risk of committing crimes and,  
17      that when addressed with evidence-based program-  
18      ming are diminished.

19           “(2) EVIDENCE-BASED PRACTICES.—The term  
20      ‘evidence-based practices’ means policies, procedures,  
21      and practices that scientific research demonstrates  
22      reduce recidivism.

23           “(3) GRADUATED SANCTIONS.—The term  
24      ‘graduated sanctions’ means an accountability-based,  
25      graduated series of sanctions applicable to

1 supervisees to hold such supervisees accountable for  
2 their actions by providing appropriate and propor-  
3 tional sanctions for each violation of supervision.

4 “(4) SANCTIONING GRID.—The term ‘sanc-  
5 tioning grid’ means a list of graduated responses for  
6 use in responding to supervisee behavior that vio-  
7 lates a condition or conditions of supervision, with  
8 responses ranging from less restrictive to more re-  
9 strictive based on the seriousness of the violation  
10 and the number and severity of prior violations.

11 “(5) NONTECHNICAL VIOLATION.—The term  
12 ‘nontechnical violation’ means a new criminal convic-  
13 tion for a crime committed while an offender is on  
14 supervision.

15 “(6) TECHNICAL VIOLATION.—The term ‘tech-  
16 nical violation’ means conduct by a person on super-  
17 vision that violates a condition or conditions of su-  
18 pervision, including a new arrest for a crime alleg-  
19 edly committed while on supervision or criminal  
20 charges that have been filed but not yet resulted in  
21 a conviction. The term ‘technical violation’ does not  
22 include a conviction for a crime committed while the  
23 person was on supervision.

24 “(7) PROBATION OFFICER.—The term ‘proba-  
25 tion officer’ means an employee of the United States



1 Probation and Pretrial Services who is directly re-  
2 sponsible for supervising individual supervisees.

3 “(8) PROBATION SUPERVISOR.—The term ‘pro-  
4 bation supervisor’ means an employee of the United  
5 States Probation and Pretrial Services who is di-  
6 rectly responsible for overseeing probation officers.

7 “(9) SUPERVISEE.—The term ‘supervisee’  
8 means an individual who is currently under super-  
9 vision.

10 “(10) SUPERVISION.—The term ‘supervision’  
11 means supervision during a term of probation or su-  
12 pervised release.”.

13 (b) CLERICAL AMENDMENT.—The table of sections  
14 for subchapter A of chapter 229 of title 18, United States  
15 Code, is amended by inserting after the item relating to  
16 section 3608 the following new item:

“3609. Graduated responses to technical violations of supervision.”.

17 (c) CONFORMING AMENDMENTS.—

18 (1) MANDATORY CONDITIONS OF PROBATION.—  
19 Section 3563(a) of title 18, United States Code, is  
20 amended—

21 (A) by striking “and” at the end of para-  
22 graph (8);

23 (B) by striking the period at the end of  
24 paragraph (9) and inserting “; and”; and

1 (C) by adding after paragraph (9) the fol-  
2 lowing:

3 “(10) for a felony or misdemeanor, that the  
4 court may modify the term of probation by imposing  
5 a graduated sanction if the probationer has waived  
6 the right to a hearing under the Federal Rules of  
7 Criminal Procedure.”.

8 (2) MANDATORY CONDITIONS OF SUPERVISED  
9 RELEASE.—Section 3583(d) of title 18, United  
10 States Code, is amended by inserting after “DNA  
11 Analysis Backlog Elimination Act of 2000.” the fol-  
12 lowing: “The court may modify the term of super-  
13 vised release by imposing a graduated sanction if the  
14 defendant has waived the right to a hearing under  
15 the Federal Rules of Criminal Procedure.”.

16 (3) DUTIES OF PROBATION OFFICERS.—Section  
17 3603 of title 18, United States Code, is amended—

18 (A) in paragraph (2) by striking “to the  
19 degree required by the conditions specified by  
20 the sentencing court” and inserting “to the de-  
21 gree required by section 3609 and the condi-  
22 tions specified by the sentencing court”; and

23 (B) in paragraph (3) by striking “use all  
24 suitable methods, not inconsistent with the con-  
25 ditions specified by the court” and inserting

1           “use a system of graduated sanctions and in-  
2           centives designed to deter and respond imme-  
3           diately to violations of supervision conditions,  
4           not inconsistent with the conditions specified by  
5           the court”.

6           (d) EFFECTIVE DATE.—The amendments made by  
7 this section take effect 1 year after the date of the enact-  
8 ment of this Act.

9   **SEC. 523. TARGETED AND PROPORTIONAL PENALTIES FOR**  
10                                   **REVOCAION OF PROBATION.**

11           (a) PENALTIES FOR NONTECHNICAL VIOLATIONS OF  
12 PROBATION.—Subsection (a) of section 3565 of title 18,  
13 United States Code, is amended to read as follows:

14           “(a) CONTINUATION OR REVOCATION FOR NONTECH-  
15 NICAL VIOLATIONS OF PROBATION.—If the defendant  
16 commits a nontechnical violation prior to the expiration  
17 or termination of the term of probation, the court may,  
18 after a hearing pursuant to the Federal Rules of Criminal  
19 Procedure, and after considering the factors set forth in  
20 section 3553(a) to the extent that they are applicable—

21                   “(1) continue the defendant on probation for  
22           the remaining duration of the term of probation,  
23           with the option to modify or impose additional con-  
24           ditions; or

1           “(2) revoke the sentence of probation and re-  
2           sentence the defendant under subchapter A.”.

3           (b) PENALTIES FOR TECHNICAL VIOLATIONS OF  
4 PROBATION.—Section 3565 of title 18, United States  
5 Code, is amended by adding at the end the following:

6           “(d) CONTINUATION OR REVOCATION FOR TECH-  
7 NICAL VIOLATIONS OF PROBATION.—If the defendant  
8 commits a technical violation prior to the expiration or ter-  
9 mination of the term of probation, the court may, after  
10 a hearing pursuant to the Federal Rules of Criminal Pro-  
11 cedure, and after considering the factors set forth in sec-  
12 tion 3553(a) to the extent that they are applicable—

13           “(1) continue the defendant on probation for  
14           the remaining duration of the original term of pro-  
15           bation, with the option to modify or impose addi-  
16           tional conditions; or

17           “(2) revoke the sentence of probation and im-  
18           pose a period of imprisonment not to exceed 60  
19           days, which can be served in one term of confine-  
20           ment or intermittent confinement (custody for inter-  
21           vals of time) in jail, prison, community confinement,  
22           or home detention in order not to disrupt employ-  
23           ment or other community obligations.”.

1 **SEC. 524. TARGETED AND PROPORTIONAL PENALTIES FOR**  
2 **VIOLATIONS OF SUPERVISED RELEASE.**

3 (a) PENALTIES FOR NONTECHNICAL VIOLATIONS OF  
4 SUPERVISED RELEASE.—Section 3583 of title 18, United  
5 States Code, is amended—

6 (1) in subsection (e), by amending paragraph  
7 (3) to read as follows:

8 “(3) revoke the term of supervised release and  
9 require the defendant to serve in prison all or part  
10 of the term of supervised release authorized by stat-  
11 ute for any or all offenses that resulted in the term  
12 of supervised release, without any credit earned to-  
13 ward discharge under section 3610, if the court,  
14 pursuant to the Federal Rules of Criminal Proce-  
15 dure applicable to revocation of probation or super-  
16 vised release, finds by a preponderance of the evi-  
17 dence that the defendant violated a condition of re-  
18 lease, except that a defendant whose term is revoked  
19 under this paragraph may not be required to serve  
20 on any such revocation more than 5 years in prison  
21 if the offense that resulted in the term of supervised  
22 release is a class A felony, more than 3 years in  
23 prison if such offense is a class B felony, more than  
24 2 years in prison if such offense is a class C or D  
25 felony, or more than one year in any other case; or”;  
26 and

1 (2) by adding at the end the following:

2 “(l) CONTINUATION OR REVOCATION FOR NONTECH-  
3 NICAL VIOLATIONS OF SUPERVISED RELEASE.—If the de-  
4 fendant commits a nontechnical violation of supervised re-  
5 lease prior to the expiration or termination of the term  
6 of supervised release, the court may, after a hearing under  
7 the provisions of the Federal Rules of Criminal Procedure,  
8 and after considering the factors set forth in section  
9 3553(a)—

10 “(1) continue the defendant on supervised re-  
11 lease for the remaining duration of the original term  
12 of supervised release, with the option to modify or  
13 impose additional conditions; or

14 “(2) revoke the term of supervised release and  
15 require the defendant to serve in prison all or part  
16 of the term of supervised release authorized by stat-  
17 ute for any or all the offenses that resulted in the  
18 term of supervised release, without any credit earned  
19 toward discharge under section 3610.”.

20 (b) PENALTIES FOR TECHNICAL VIOLATIONS OF SU-  
21 PERVISED RELEASE.—Section 3583 is amended by insert-  
22 ing after subsection (g) the following:

23 “(h) CONTINUATION OR REVOCATION FOR TECH-  
24 NICAL VIOLATIONS OF SUPERVISED RELEASE.—If the de-  
25 fendant commits a technical violation of supervised release

1 prior to the expiration or termination of the term of super-  
2 vised release, the court may, after opportunity for a hear-  
3 ing under the Federal Rules of Criminal Procedure and  
4 after considering the factors set forth in section 3553(a)—

5           “(1) continue the defendant on supervised re-  
6 lease for the remaining duration of the term of pro-  
7 bation, with the option to modify or impose addi-  
8 tional conditions; or

9           “(2) revoke the term of supervised release and  
10 impose a period of imprisonment not to exceed 60  
11 days, which can be served in one term of confine-  
12 ment or intermittent confinement (custody for inter-  
13 vals of time) in jail, prison, community commitment,  
14 or home detention in order not to disrupt employ-  
15 ment or other community obligations.”.

16           **Subtitle D—Focus Supervision**  
17           **Resources on High-Risk Offenders**

18           **SEC. 531. EARNED DISCHARGE CREDITS FOR COMPLIANT**  
19   **SUPERVISEES.**

20           (a) IN GENERAL.—Title 18, United States Code, is  
21 amended by inserting after section 3609 (as added by sec-  
22 tion 522(a)) the following:

1 **“§ 3610. Incentivizing compliance with supervision**  
2 **conditions**

3 “(a) IN GENERAL.—A probation officer shall have  
4 the authority to award positive reinforcements for a de-  
5 fendant who is in compliance with the terms and condi-  
6 tions of supervision. These positive reinforcements may in-  
7 clude—

8 “(1) verbal recognition;

9 “(2) reduced reporting requirements; and

10 “(3) credits earned toward discharge which  
11 shall be awarded pursuant to subsection (b).

12 “(b) CREDITS FOR EARNED DISCHARGE.—  
13 Supervisees shall be eligible to earn discharge credits for  
14 complying with the terms and conditions of supervision.  
15 These credits, once earned, shall reduce the period of su-  
16 pervision.

17 “(1) DETERMINATION OF AWARD.—The proba-  
18 tion officer shall award 30 days of earned discharge  
19 credits for each calendar month in which the of-  
20 fender is in compliance with the terms and condi-  
21 tions of supervision. If the offender commits a viola-  
22 tion of supervision during the month, credits shall  
23 not be awarded for that month.

24 “(2) DISCHARGE FROM SUPERVISION.—Once  
25 the combination of time served on supervision and  
26 earned discharge credits satisfies the total period of



1 supervision, upon motion of any party or upon the  
2 court's own motion, the court shall terminate the pe-  
3 riod of supervision. The probation officer shall notify  
4 the parties and the court in writing at least 60 days  
5 prior to the termination of supervision. The 60-day  
6 period shall include the accrual of all earned dis-  
7 charge credits to that point.

8 “(c) DEFINITIONS.—In this section:

9 “(1) PROBATION OFFICER.—The term ‘proba-  
10 tion officer’ means an employee of Probation and  
11 Pretrial Services who is directly responsible for su-  
12 pervising individual supervisees.

13 “(2) SUPERVISEE.—The term ‘supervisee’ has  
14 the meaning given that term in section 3609.

15 “(3) SUPERVISION.—The term ‘supervision’ has  
16 the meaning given that term in section 3609.

17 “(4) TERMINATION OF SUPERVISION.—The  
18 term ‘termination of supervision’ means discharge  
19 from supervision at or prior to the expiration of the  
20 sentence imposed by the court.

21 “(5) TERMS AND CONDITIONS OF SUPER-  
22 VISION.—The term ‘terms and conditions of super-  
23 vision’ means those requirements set by the court.

24 “(6) VIOLATION OF SUPERVISION.—The term  
25 ‘violation of supervision’ means conduct by a person

1 on supervision that violates a condition of super-  
2 vision.”.

3 (b) CLERICAL AMENDMENT.—The table of sections  
4 at the beginning of subchapter A of chapter 229 of title  
5 18, United States Code, is amended by inserting after the  
6 item relating to section 3609 (as added by section 522(b))  
7 the following new item:

“3610. Incentivizing compliance with supervision conditions.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section take effect 1 year after the date of the enact-  
10 ment of this Act.

11 **SEC. 532. ELIMINATION OF MANDATORY REVOCATION FOR**  
12 **MINOR DRUG VIOLATIONS.**

13 (a) REMOVING SUBSTANCE-RELATED VIOLATIONS AS  
14 GROUNDS FOR MANDATORY REVOCATION OF SUPERVISED  
15 RELEASE.—Section 3583(g) of title 18, United States  
16 Code, is amended—

17 (1) in the flush text following paragraph (4), by  
18 striking “require the defendant to serve a term of  
19 imprisonment not to exceed the maximum term of  
20 imprisonment authorized by subsection (e)(3)” and  
21 inserting “require the defendant to serve a term of  
22 imprisonment not to exceed 60 days unless otherwise  
23 authorized under subsection (f)”;

24 (2) by striking paragraphs (1) and (4);

1 (3) by inserting “or” at the end of paragraph  
2 (2); and

3 (4) by striking “or” at the end of paragraph  
4 (3).

5 (b) REMOVING SUBSTANCE-RELATED VIOLATIONS AS  
6 GROUNDS FOR MANDATORY REVOCATION OF PROBA-  
7 TION.—Section 3565(b) of title 18, United States Code,  
8 is amended—

9 (1) in the flush text following paragraph (4), by  
10 striking “revoke the sentence of probation and re-  
11 sentence the defendant under subchapter A to a sen-  
12 tence that includes a term of imprisonment” and in-  
13 serting “revoke the sentence of probation and re-  
14 quire the defendant to serve a term of imprisonment  
15 not to exceed 60 days unless otherwise authorized  
16 under subsection (d)”;

17 (2) by striking paragraphs (1) and (4).

18 **Subtitle E—Creating a Perform-**  
19 **ance-Incentive Funding Pro-**  
20 **gram**

21 **SEC. 541. CALCULATION OF SAVINGS.**

22 (a) CALCULATION OF REVOCATION BASELINE.—

23 (1) GENERAL RULE.—The Director of the Ad-  
24 ministrative Office of the Courts, in consultation  
25 with the Director of the Bureau of Prisons and the

1 United States Sentencing Commission, shall cal-  
2 culate for each Federal judicial district a baseline  
3 revocation rate.

4 (2) METHOD OF CALCULATION.—The baseline  
5 revocation rate for a judicial district is the percent-  
6 age equivalent of the ratio of the total number of  
7 adult supervisees sent to prison from that district  
8 during the baseline period to the total number of  
9 adult supervisees sent to prison nationally during  
10 the same period.

11 (3) DEFINITIONS.—In this subsection—

12 (A) the term “sent to prison” means sent  
13 to Federal or State prison—

14 (i) for a revocation of probation or su-  
15 pervised release; or

16 (ii) for a conviction of a new felony of-  
17 fense.

18 (B) The term “baseline period” means the  
19 period beginning January 1, 2012, and ending  
20 December 31, 2014.

21 (b) ANNUAL REVOCATION CALCULATIONS.—At the  
22 conclusion of the calendar year following the implementa-  
23 tion of subsection (a), and every calendar year thereafter,  
24 the Director of the Administrative Office of the Courts,  
25 in consultation with the Director of the Bureau of Prisons

1 and the United States Sentencing Commission shall cal-  
2 culate the following measures:

3 (1) AVERAGE MARGINAL REVOCATION COST.—

4 The average marginal revocation cost, which is the  
5 average cost to incarcerate a supervisee revoked to  
6 prison in the previous year, including average length  
7 of stay times average marginal cost per day.

8 (2) NATIONWIDE REVOCATION RATE.—The na-

9 tionwide revocation rate, which is calculated as the  
10 number of supervisees nationwide sent to prison in  
11 the previous year as a percentage of the nationwide  
12 supervision population as of June 30 of that year.

13 (3) DISTRICT REVOCATION RATES.—For each

14 judicial district, the district's revocation rate, which  
15 is calculated as the number of supervisees from that  
16 district sent to prison in the previous year as a per-  
17 centage of the district's supervision population as of  
18 June 30th of that year.

19 (4) REDUCTION IN REVOCATION RATE.—For

20 each judicial district, the reduction in revocation  
21 rate is the number of adult supervisees from each  
22 district not revoked to prison, which is calculated  
23 based on the reduction in the district's revocation  
24 rate as calculated under paragraph (3) from the dis-  
25 trict's baseline revocation rate as calculated under

1 subsection (a). In making this estimate, the Director  
2 of the Administrative Office of the Courts, in con-  
3 sultation with the Director of the Bureau of Prisons  
4 and the Judicial Conference of the United States,  
5 may adjust the calculation to account for changes in  
6 each district's caseload in the most recent completed  
7 year as compared to the district's adult supervision  
8 population during the years 2012 through 2014.

9 (c) CATEGORIZATION OF JUDICIAL DISTRICTS.—An-  
10 nually, at the conclusion of each calendar year, the Direc-  
11 tor of the Administrative Office of the Courts, in consulta-  
12 tion with the Director of the Bureau of Prisons and the  
13 United States Sentencing Commission, shall assign the  
14 appropriate supervision revocation tier to each judicial dis-  
15 trict for which it was estimated that the judicial district  
16 successfully reduced its revocation rate, as provided by  
17 subsection (b)(4). The tiers are defined for the purposes  
18 of this subtitle as follows:

19 (1) TIER 1.—A tier 1 district is one which has  
20 a district revocation rate, as defined in subsection  
21 (b)(3), that is no more than 25 percent higher than  
22 the nationwide revocation rate, as defined in sub-  
23 section (b)(2).

24 (2) TIER 2.—A tier 2 district is one which has  
25 a district revocation rate, as defined in subsection

1 (b)(3), that is more than 25 percent above the na-  
2 tionwide revocation rate, as defined in subsection  
3 (b)(2).

4 **SEC. 542. DISTRIBUTION OF PERFORMANCE INCENTIVE**  
5 **FUNDING.**

6 (a) DISTRIBUTION OF REVOCATION REDUCTION IN-  
7 CENTIVE PAYMENTS.—Annually, the Director of the Ad-  
8 ministrative Office of the Courts, in consultation with the  
9 Director of the Bureau of Prisons and the United States  
10 Sentencing Commission, shall calculate a revocation re-  
11 duction incentive payment for each eligible judicial dis-  
12 trict, pursuant to section 541, for the most recently com-  
13 pleted calendar year, as follows:

14 (1) REVOCATION REDUCTION INCENTIVE PAY-  
15 MENTS FOR TIER 1 DISTRICTS.—For a tier 1 dis-  
16 trict, the district's revocation reduction incentive  
17 payment is equal to the estimated number of  
18 supervisees successfully prevented from being sent to  
19 prison, as defined by section 541(b)(4) multiplied by  
20 45 percent of the costs to the Director of the Bu-  
21 reau of Prisons to incarcerate a supervisee who is  
22 revoked to prison, as defined in section 541(b)(1).

23 (2) REVOCATION REDUCTION INCENTIVE PAY-  
24 MENTS FOR TIER 2 DISTRICTS.—For a tier 2 judicial  
25 district, its revocation rate shall equal the estimated

1 number of supervisees successfully prevented from  
2 being sent to prison, as defined by section 541(b)(4)  
3 multiplied by 40 percent of the costs to the Bureau  
4 of Prisons to incarcerate in prison a supervisee  
5 whose supervision is revoked.

6 (b) DISTRIBUTION OF GRANTS FOR HIGH-PER-  
7 FORMING DISTRICTS.—

8 (1) FUNDING RESERVED FOR HIGH-PER-  
9 FORMING DISTRICTS.—Annually, the Director of the  
10 Administrative Office of the Courts, in consultation  
11 with the Director of the Bureau of Prisons and the  
12 United States Sentencing Commission, shall cal-  
13 culate 5 percent of the total savings attributed to  
14 those districts that successfully reduce the number  
15 of supervisees revoked to prison for the purposes of  
16 providing high-performance grants.

17 (2) ELIGIBILITY.—A judicial district is eligible  
18 for a high-performance grant if it is a district—

19 (A) with supervisee revocation rates more  
20 than 50 percent below the nationwide average  
21 in the most recently completed calendar year;  
22 and

23 (B) that has not exceeded the national rev-  
24 ocation rate for the past three calendar years.



1           (3) ADMINISTRATION OF GRANTS FOR HIGH-  
2           PERFORMING DISTRICTS.—

3           (A) The Administrative Office of the  
4           Courts may make a high performance grant to  
5           a district in a year in which that district does  
6           not also receive a supervision revocation reduc-  
7           tion payment under subsection (a).

8           (B) The chief probation officer, in con-  
9           sultation with the chief judge, in a judicial dis-  
10          trict that qualifies for both a high performance  
11          grant and a supervision revocation reduction  
12          payment shall inform the Administrative Office  
13          of the Courts, by a date designated by the Ad-  
14          ministrative Office of the Courts, whether the  
15          judicial district should receive the high perform-  
16          ance grant or the supervision failure reduction  
17          incentive payment.

18          (C) The Administrative Office of the  
19          United States Courts shall seek to ensure that  
20          each qualifying judicial district that submits a  
21          qualifying application for a high performance  
22          grant receives a proportionate share of the  
23          grant funding available, based on the popu-  
24          lation of adults age 18 to 25, inclusive, in that  
25          judicial district.

1           (c) PAYMENTS.—The Administrative Office of the  
2 United States Courts shall disburse the revocation reduc-  
3 tion incentive payments and high performance grants cal-  
4 culated for any calendar year to judicial districts in the  
5 following fiscal year.

6 **SEC. 543. USE OF PERFORMANCE INCENTIVE FUNDING.**

7           (a) ESTABLISHMENT OF A SUPERVISION PERFORM-  
8 ANCE INCENTIVE FUND.—Each district probation office  
9 is hereby authorized to establish a Supervision Perform-  
10 ance Incentive Fund (hereinafter in this section referred  
11 to as the “Fund”), to receive all amounts allocated to the  
12 judicial district for the purposes of implementing this sec-  
13 tion. In any fiscal year for which a district probation office  
14 receives sums to be expended for the implementation of  
15 this section, those sums, including any interest, shall be  
16 made available to the chief probation officer of that dis-  
17 trict probation office, not later than 30 days after the de-  
18 posit of those moneys into the fund.

19           (b) AUTHORIZED USE OF FUNDS.—Funds received  
20 through appropriations for the purposes of this subtitle  
21 shall be used by the chief probation officer or his designee  
22 to provide supervision and rehabilitative services for Fed-  
23 eral supervisees, and shall be spent on implementing or  
24 enhancing evidence-based community corrections practices  
25 and programs, which may include the following:

1           (1) Implementing and expanding evidence-based  
2 risk and needs assessments.

3           (2) Implementing and expanding the use of  
4 graduated sanctions pursuant to section 3609.

5           (3) Implementing and expanding treatment and  
6 services associated with problem-solving courts that  
7 are proven to reduce recidivism among the targeted  
8 population.

9           (4) Expanding the availability of evidence-based  
10 rehabilitation programs, including drug and alcohol  
11 treatment, mental health treatment, employment  
12 programs, services for victims of domestic violence,  
13 services for veterans, and cognitive behavioral ther-  
14 apy.

15           (5) Expanding the availability, in terms of  
16 hours and geographic locations, of day reporting  
17 centers and the reporting hours of existing probation  
18 offices to accommodate supervisees' work, education,  
19 and/or child care schedules.

20           (6) Hiring social workers to assist supervisees  
21 in applications for social services and programs on  
22 the local, State, and Federal level.

23           (7) Evaluating the effectiveness of rehabilita-  
24 tion and supervision programs and ensuring pro-  
25 gram fidelity.

1 (c) MANDATORY EVALUATION.—

2 (1) IN GENERAL.—Except as provided in para-  
3 graph (2), the chief probation officer, in consultation  
4 with the chief judge of the judicial district, shall de-  
5 vote at least 5 percent of all funding received  
6 through the Fund to evaluate the effectiveness of  
7 those programs and practices implemented or ex-  
8 panded with the funds provided pursuant to this sec-  
9 tion.

10 (2) WAIVER OF REQUIREMENT.—A chief proba-  
11 tion officer may petition the Administrative Office of  
12 the United States Courts for waiver of this restric-  
13 tion, and the Administrative Office of the United  
14 States Courts shall have the authority to grant such  
15 a petition, if the Chief Probation Officer can dem-  
16 onstrate that the department is already devoting suf-  
17 ficient funds to the evaluation of these programs and  
18 practices.

19 (d) ACCOUNTING.—The head of each district proba-  
20 tion office receiving amounts from the Fund shall provide  
21 for a separate accounting of those amounts sufficient to  
22 evaluate the effectiveness of each program.

23 **SEC. 544. DEFINITIONS.**

24 In this subtitle:

1           (1) CHIEF JUDGE.—The term “chief judge”  
2 with respect to a district court means the chief judge  
3 of that court, or the judge of that court if there is  
4 only one judge.

5           (2) CHIEF PROBATION OFFICER.—The term  
6 “chief probation officer” means the probation officer  
7 designated by the court to direct the work of all pro-  
8 bation officers serving in the judicial district.

9           (3) COMMUNITY CORRECTIONS PROGRAM.—The  
10 term “community corrections program” means an  
11 evidence-based recidivism reduction program estab-  
12 lished pursuant to this subtitle, consisting of a sys-  
13 tem of services dedicated to all of the following  
14 goals:

15                   (A) Enhancing public safety through the  
16 management and reduction of a supervisee’s  
17 risk of recidivism while under supervision.

18                   (B) Supporting supervisees’ achievement of  
19 stability of employment and housing by using a  
20 range of supervision tools, sanctions, and serv-  
21 ices applied to supervisees for the purpose of re-  
22 ducing criminal conduct and promoting behav-  
23 ioral change that reduces recidivism and pro-  
24 motes the successful reintegration of offenders  
25 into the community.

1 (C) Holding offenders accountable for their  
2 criminal behaviors and for successful compli-  
3 ance with applicable court orders and conditions  
4 of supervision.

5 (D) Improving public safety outcomes for  
6 persons placed on supervision, as measured by  
7 their successful completion of supervision and  
8 commensurate reduction in the rate of  
9 supervisees sent to prison as a result of a rev-  
10 ocation or conviction for a new crime.

11 (4) EVIDENCE-BASED PRACTICES.—The term  
12 “evidence-based practices” means supervision poli-  
13 cies, procedures, programs, and practices that sci-  
14 entific research demonstrates reduce recidivism  
15 among people on probation or supervised release.

16 (5) SUPERVISEE.—The term “supervisee” has  
17 the meaning given that term in section 3609 of title  
18 18, United States Code.

19 (6) SUPERVISION.—The term “supervision” has  
20 the meaning given that term in section 3609 of title  
21 18, United States Code.

22 (7) REVOCATION.—The term “revocation”  
23 means a judicial process to revoke supervision that  
24 imposes confinement.

1 **Subtitle F—Maximizing Public**  
2 **Safety Returns on Corrections**  
3 **Dollars**

4 **SEC. 551. CLARIFICATION OR ORIGINAL CONGRESSIONAL**  
5 **INTENT REGARDING CALCULATION OF GOOD**  
6 **TIME CONDUCT CREDIT.**

7 (a) IN GENERAL.—Section 3624(b) of title 18,  
8 United States Code, is amended—

9 (1) so that paragraph (1) reads as follows:

10 “(1) Subject to paragraph (2) and in addition  
11 to the time actually served by the prisoner and any  
12 credit provided to the prisoner under any other pro-  
13 vision of law, a prisoner who is serving a term of im-  
14 prisonment of more than 1 year, other than a term  
15 of imprisonment for the duration of the prisoner’s  
16 life, shall receive credit computed under this para-  
17 graph toward that prisoner’s term of imprisonment.  
18 The credit under this paragraph is computed begin-  
19 ning on the date on which the sentence of the pris-  
20 oner commences, at the rate of 54 days per year of  
21 the sentence imposed by the court, if the Director of  
22 the Bureau of Prisons determines that the prisoner  
23 has displayed exemplary compliance with institu-  
24 tional disciplinary regulations.”; and





1 (b) PRESENTENCE REPORTS.—Section 3552(a) of  
2 title 18, United States Code, is amended by adding at the  
3 end the following “The appropriate officials of the United  
4 States Probation and Pretrial Services shall provide infor-  
5 mation on the average annual cost of the kinds of sen-  
6 tences available as part of the Presentence Investigation  
7 Report. For the purposes of this subsection the average  
8 annual cost of incarceration is the figure per fiscal year  
9 as published by the Director of the Bureau of Prisons.  
10 The average annual fiscal costs of alternatives to incarcer-  
11 ation for that judicial district shall be compiled by the  
12 United States Probation and Pretrial Services.”.

13 (c) DIRECTIVE TO THE SENTENCING COMMISSION.—  
14 Pursuant to its authority under section 994(p) of title 28,  
15 United States Code, and in accordance with this section,  
16 the United States Sentencing Commission shall amend its  
17 guidelines and its policy statements to ensure that the  
18 guidelines and policy statements are consistent with the  
19 amendments made by this section and reflect the intent  
20 of Congress that an analysis of fiscal implications be in-  
21 cluded in presentence reports and considered in the im-  
22 position of appropriate sentences.

23 (d) DIRECTIVE TO THE JUDICIAL CONFERENCE.—  
24 Pursuant to its authority under section 334 of title 28,  
25 United States Code, and in accordance with this section,

1 the Judicial Conference of the United States shall propose  
2 an amendment to the Federal Rules of Criminal Procedure  
3 consistent with the amendments made by this section to  
4 reflect the intent of Congress that an analysis of fiscal  
5 implications shall be included in presentence reports and  
6 considered in the imposition of appropriate sentences.

7 **SEC. 553. INVESTING IN AND SUPPORTING SAFE LAW EN-**  
8 **FORCEMENT.**

9 (a) FINDINGS.—Congress finds the following:

10 (1) Most law enforcement officers walk into  
11 risky situations and encounter tragedy on a regular  
12 basis. Some, such as the police who responded to the  
13 carnage of the Sandy Hook Elementary School, wit-  
14 ness horror that stays with them for the rest of their  
15 lives. Others are physically injured in carrying out  
16 their duties, sometimes needlessly, through mistakes  
17 made in high stress situations. The recent notable  
18 deaths of officers are stark reminders of the risk of-  
19 ficers face. As a result, physical, mental, and emo-  
20 tional injuries plague many law enforcement agen-  
21 cies. However, a large proportion of officer injuries  
22 and deaths are not the result of interaction with of-  
23 fenders but the outcome of poor physical health due  
24 to poor nutrition, lack of exercise, sleep deprivation,  
25 and substance abuse. Yet these causes are often

1 overlooked or given scant attention. Many other in-  
2 juries and fatalities are the result of vehicular acci-  
3 dents. The wellness and safety of law enforcement  
4 officers is critical not only to themselves, their col-  
5 leagues, and their agencies, but also to public safety.

6 (2) Officer suicide is also a problem. Police died  
7 from suicide 2.4 times as often as from homicides.  
8 And though depression resulting from traumatic ex-  
9periences is often the cause, routine work and life  
10 stressors—serving hostile communities, working long  
11 shifts, lack of family or departmental support—are  
12 frequent motivators too.

13 (3) According to estimates of the United States  
14 Bureau of Labor Statistics, more than 100,000 law  
15 enforcement professionals are injured in the line of  
16 duty each year. Many are the result of assaults,  
17 which underscores the need for body armor, but  
18 most are due to vehicular accidents.

19 (b) AUTHORIZED USES.—Funds obligated, but sub-  
20 sequently unspent and deobligated, may remain available,  
21 to the extent provided in appropriations Acts, for use as  
22 specified under this section in ensuing fiscal years. The  
23 further obligation of such funds by the Attorney General  
24 for such purpose shall not be delayed, directly or indi-

1 rectly, in any manner by any officer or employee in the  
2 executive branch.

3 (1) A national “Blue Alert” warning system to  
4 enlist the help of the public in finding suspects after  
5 a law enforcement officer is killed in the line of  
6 duty.

7 (2) Counseling and support services for family  
8 members of law enforcement officers who are killed  
9 in the line of duty.

10 (3) National toll-free mental health hotline spe-  
11 cifically for law enforcement officers, which is both  
12 anonymous and peer-driven and has the ability and  
13 resources to refer the caller to professional help if  
14 needed.

15 (4) Continuing research in the efficacy and im-  
16 plementation of an annual fitness, resilience, nutri-  
17 tion, and mental health check, in recognition that  
18 many health problems afflicting law enforcement of-  
19 ficers, notably cardiac issues, are cumulative.

20 (5) Expanding Federal pension plans and  
21 incentivizing State and local pension plans to recog-  
22 nize fitness for duty exams as definitive evidence of  
23 valid duty or nonduty related disability in recogni-  
24 tion of the fact that officers injured in the line of  
25 duty are often caught in limbo, without pay, unable

1 to work but also unable to obtain benefits because  
2 “fitness for duty” exams are not recognized as valid  
3 proof of disability and because they cannot receive  
4 Social Security.

5 (6) Implementing research-based findings into  
6 the number of hours an officer should work consecu-  
7 tively and in total within a 24–48 hour period, in-  
8 cluding special findings on the maximum number of  
9 hours an officer should work in a high-risk or high-  
10 stress environment (e.g. public demonstrations or  
11 emergency situations) by implementing those find-  
12 ings federally and providing incentives for State and  
13 local law enforcement to do the same.

14 (7) Providing individual tactical first-aid kits  
15 that contain tourniquets, an Olaes modular bandage,  
16 and QuickClot gauze, and training in hemorrhage  
17 control to every law enforcement officer on the Fed-  
18 eral level and providing incentives for State and  
19 local enforcement agencies to do so.

20 (8) Providing antiballistic vests and body armor  
21 to every law enforcement officer on the Federal level,  
22 and providing incentives for State and local law en-  
23 forcement agencies to do so.

24 (9) Providing pepper spray to every correctional  
25 worker in medium, high, and maximum security

1 Federal prisons and instituting a training program  
2 to educate workers on how to use the spray respon-  
3 sibly and effectively for self-defense purposes only,  
4 and providing incentives for State and law enforce-  
5 ment agencies to do so.

6 (10) Researching and developing the design  
7 specifications or modifications for body-worn cam-  
8 eras with the input of Federal, State, and local law  
9 enforcement leaders and providing the devices or  
10 funding to purchase the device to every Federal law  
11 enforcement and correctional agency and State and  
12 local officer, in recognition of the fact that these de-  
13 vices reduce unwarranted complaints against officers  
14 while also vindicating civilians who have been mis-  
15 treated.

16 (11) Researching, developing, and providing  
17 best practices for Federal, State, and local law en-  
18 forcement on the acquisition, use, retention, and dis-  
19 semination of auditory, visual, and biometric data  
20 from law enforcement in a constitutional manner, in  
21 consultation with civil rights and civil liberties orga-  
22 nizations, as well as law enforcement research  
23 groups and other experts.

24 (12) Hiring of additional law enforcement and  
25 correctional officers at the Federal level and pro-

1       viding incentives for State and local governments to  
2       do so, in recognition of the fact that it is not the  
3       length of incarceration but the certainty of being  
4       caught that has a deterrent effect.

5           (13) Hiring of social workers by the Bureau of  
6       Prisons and providing incentives for State and local  
7       governments to do so because social workers are  
8       uniquely qualified to address the release preparation  
9       needs of aging inmates, such as aftercare planning  
10      and ensuring continuity of medical care.

11          (14) Providing funding and training federally  
12      and to State and local law enforcement agencies on  
13      community-based policing principles to repair and  
14      rebuild trust and collaborative relationships.

15          (15) Providing funding to Federal, State, and  
16      local law enforcement agencies to eliminate the DNA  
17      backlog, in recognition that repeat, violent offenders,  
18      in particular sex offenders, would be identified and  
19      prevented from committing additional crimes.

20          (16) Implementing requested and recommended  
21      mental health treatments to Federal law enforce-  
22      ment and correctional officers and providing incen-  
23      tives to State and local law enforcement and correc-  
24      tions agencies to do the same.

1           (17) Providing incentives and support services  
2           to State and local law enforcement agencies to en-  
3           hance the reporting to and usage of the National In-  
4           cident-Based Reporting System, which collects data  
5           on each single incident and arrest within 22 offense  
6           categories made up of 46 specific crimes that are the  
7           major ones facing law enforcement today, including  
8           terrorism, white collar crime, weapons offenses,  
9           missing children in which criminality is involved,  
10          drug offenses, hate crimes, spousal/child/elder abuse,  
11          gang crimes, organized crime, sexual exploitation,  
12          DUI and alcohol-related offenses.

13          (18) Providing medication-assisted treatment  
14          for individuals struggling with heroin, opioid, or al-  
15          cohol abuse in residential substance abuse treatment  
16          programs and providing funding to State and local  
17          governments to do so.

18          (19) Providing funding to State and local gov-  
19          ernments and law enforcement agencies to imple-  
20          ment the Attorney General’s best practices on infor-  
21          mation and resource parity and innocence protec-  
22          tion, including “open file” discovery practices, evi-  
23          dence preservation, training on interrogation to  
24          avoid coercive tactics that lead to false or unreliable  
25          confessions, training on interviewing witnesses to



1       avoid suggestive tactics that lead to false or unreli-  
2       able identifications, and training on the cross-racial  
3       misidentification probability.

4               (20) Investing in research and training in non-  
5       lethal tools of policing that provide a greater range  
6       of law enforcement response, including to de-escalate  
7       situations and reduce deadly uses of force.

8               (21) Investing in evidence-based programs to  
9       assist communities in developing comprehensive re-  
10      sponses to youth violence through coordinated pre-  
11      vention and intervention initiatives.

12              (22) Hiring social workers, psychologists, psy-  
13      chiatrists, therapists, and counselors for Federal  
14      prisons and providing funding to State and local  
15      governments to do the same as they are uniquely  
16      qualified to address the release preparation needs of  
17      inmates.

18              (23) Providing funding to State and local law  
19      enforcement agencies to provide and expand hiring  
20      and retention incentives for officers with under-  
21      graduate and graduate degrees.

22              (24) Providing additional funding to Federal,  
23      State, and local government agencies to provide com-  
24      petent and effective counsel for indigent defendants.

1           (25) Providing funding for a competitive 5-year  
2           grant to a nationally recognized, nonpartisan, sci-  
3           entifically sound, research organization, with an ad-  
4           visory board comprised of local, State, and Federal  
5           law enforcement leaders, and subject matter experts,  
6           to create a national nonpunitive, forward-focused  
7           peer review, training, and improvement center with  
8           the goal of improved safety outcomes for officers and  
9           civilians that would—

10                   (A) establish a “critical incident review”  
11           mechanism, similar to those used in medicine  
12           and aviation, as a comprehensive, protective,  
13           and accurate way of examining the cir-  
14           cumstances surrounding an incident to accu-  
15           rately identify problems on a systemic level to  
16           reduce the number and types of problems, to  
17           improve policing outcomes, refine policies and  
18           practices, and build upon meaningful conversa-  
19           tions and research to see what can be improved  
20           with cooperation of the law enforcement agen-  
21           cies involved;

22                   (B) establish the data input form and in-  
23           frastructure of a “near miss” database and for  
24           every policing incident in which an officer or ci-  
25           vilian life is lost or substantial force to review

1 knowledge gained from past tragedies in order  
2 to disseminate it to prevent future ones and to  
3 encourage new learning and sustainable, stake-  
4 holder-driven change;

5 (C) study, recommend, and establish an  
6 “officer-involved shooting database” for use  
7 when firearms have been used against law en-  
8 forcement officers and where officers have used  
9 firearms against civilians to review knowledge  
10 gained from past tragedies to distinguish be-  
11 tween actual risk versus perceived risk on the  
12 part of the civilian or officer and to develop  
13 best practices;

14 (D) advance training, technical assistance  
15 and knowledge around mental health issues that  
16 occur within the criminal justice system, includ-  
17 ing providing training and funding for de-esca-  
18 lation techniques, coordination among other  
19 government agencies, information-sharing, di-  
20 version initiatives, jail and prison strategies, es-  
21 tablishment of learning sites, suicide prevention,  
22 and assistance and infrastructure for calls for  
23 service and law enforcement triage capabilities;

24 (E) study, invest in, and apply policing re-  
25 search tools that develop forecasts based upon

1           evolving technology, social movements, environ-  
2           mental changes, economic factors, and political  
3           events; and

4           (F) educate and facilitate the advance of  
5           evidence-based policing to encourage policing  
6           use of the best available scientific evidence to  
7           control crime and disorder and enhance officer  
8           safety and wellness.

9           (26) Providing funding for Federal, State, and  
10          local law enforcement leaders to attend the FBI Na-  
11          tional Academy to share best practices and support  
12          national coherence on important policing issues in  
13          this ever-changing field.

14          (c) FUNDS TO SUPPLEMENT, NOT SUPPLANT, EX-  
15          ISTING FUNDS.—Funds disbursed pursuant to this section  
16          shall not be used to supplant existing State or local funds  
17          utilized for these purposes, but rather to supplement them.

18          (d) ACCOUNTING.—Every year, the Department of  
19          Justice shall provide an accounting of the reprogrammed  
20          funds to ensure the funds are disbursed and expended in  
21          a manner to maximize public safety and make needed im-  
22          provements to the criminal justice system. The Attorney  
23          General shall report the findings to the relevant congres-  
24          sional committees.

1 **TITLE VI—PREVENTION AND**  
2 **INTERVENTION INITIATIVES**  
3 **INCREASING GOVERNMENT**  
4 **TRANSPARENCY ACCURACY**

5 **SEC. 601. REPORT ON MANDATORY MINIMUMS.**

6 Not later than one year after the date of the enact-  
7 ment of this Act, the Government Accountability Office  
8 (GAO), in coordination with the Attorney General, shall  
9 provide a report to Congress listing all existing mandatory  
10 minimum penalties in force, including brief summaries of  
11 the conduct prohibited by each and how frequently the  
12 mandatory minimum is imposed.

13 **SEC. 602. FEDERAL DEFENDER ADDED AS A NONVOTING**  
14 **MEMBER OF THE SENTENCING COMMISSION.**

15 (a) IN GENERAL.—Subsection (a) of section 991 of  
16 title 28, United States Code, is amended—

17 (1) by striking “one nonvoting member.” at the  
18 end of the first sentence and inserting “two non-  
19 voting members.”; and

20 (2) by inserting before the last sentence the fol-  
21 lowing: “A Federal public or community defender  
22 designated by the Judicial Conference of the United  
23 States with the advice of the Defender Services Ad-  
24 visory Group shall be a nonvoting member of the  
25 Commission.”.

1 (b) CONFORMING AMENDMENT.—The final sentence  
2 of section 235(b)(5) of the Comprehensive Crime Control  
3 Act of 1984 (18 U.S.C. 3551 note) is amended by striking  
4 “nine members, including two ex officio, nonvoting mem-  
5 bers” and inserting “ten members, including three non-  
6 voting members”.

7 **SEC. 603. BUDGET AND INMATE POPULATION IMPACT OF**  
8 **LEGISLATION ON THE FEDERAL CORREC-**  
9 **TIONS SYSTEM.**

10 (a) IMPACT ANALYSIS.—

11 (1) WHEN REQUIRED.—Upon request by the  
12 chair or ranking member of the Committee on the  
13 Judiciary of either the Senate or the House of Rep-  
14 resentatives with respect to legislation referred to  
15 that committee that amends sentencing or correc-  
16 tions policy or creates a new criminal penalty, the  
17 Attorney General shall, before the final committee  
18 vote on ordering the legislation reported, provide the  
19 requesting party an impact analysis.

20 (2) CONTENTS.—The impact analysis shall con-  
21 tain—

22 (A) an estimate of the Federal budgetary  
23 impact of the legislation, both overall and bro-  
24 ken down by each agency affected in the execu-  
25 tive and judicial branches; and

1 (B) an estimate of the legislation's 10-year  
2 prison bed impact on Federal facilities.

3 (b) AMENDMENTS.—Upon request by the chair or  
4 ranking member of the Committee on the Judiciary of the  
5 Senate or House of Representatives with respect to any  
6 legislation ordered reported favorably by that committee  
7 with amendment, the Attorney General shall, not later  
8 than 30 days after the request is made, provide the re-  
9 questing party with an updated impact analysis.

10 (c) INCLUSION OF IMPACT ANALYSIS OR STATE-  
11 MENT.—The chair or ranking member shall include in the  
12 committee report, or in additional, separate, or dissenting  
13 views appended to the report, as the case may be, any  
14 impact analysis provided at the request of that chair or  
15 ranking member. If the Attorney General does not provide  
16 an impact analysis in a timely manner, the chair or rank-  
17 ing member shall instead include in the committee report  
18 or views, a statement that the impact analysis was not  
19 provided.

20 (d) EFFECT OF FAILURE TO COMPLY WITH RE-  
21 QUIREMENTS OF SECTION.—The Attorney General shall  
22 make every effort to provide an impact analysis required  
23 under this section, and the requesting party shall make  
24 every effort to give the Attorney General sufficient notice  
25 to do so. However, failure to provide the impact analysis

1 does not give rise to any point of order regarding the legis-  
2 lation. Failure by a chair or ranking member to include  
3 matter as required by this section in a report or views  
4 appended to the report does not give rise to a point of  
5 order regarding the legislation.

6 **SEC. 604. REPORTS.**

7 (a) ANNUAL REPORTS BY THE ATTORNEY GEN-  
8 ERAL.—Not later than January 1, 2016, and every year  
9 thereafter, the Attorney General shall submit to the Con-  
10 gress, a report that contains the following:

11 (1) Analysis of demographic (age, race/eth-  
12 nicity, gender) data on Federal offenders, including  
13 by offender demographics, the types of offenses for  
14 which offenders in that demographic have—

15 (A) had their cases presented to the De-  
16 partment of Justice but not charged;

17 (B) been charged but dismissed;

18 (C) been charged initially with mandatory  
19 minimums, including the type of mandatory  
20 minimum charged;

21 (D) been charged in a superseding indict-  
22 ment with mandatory minimums;

23 (E) plea bargained in exchange for the De-  
24 partment of Justice not charging mandatory



1           minimums, including the type of mandatory  
2           minimum plea bargained away;

3           (F) been initially charged with mandatory  
4           minimums but were withdrawn or dismissed,  
5           listed by type of mandatory minimum; and

6           (G) been convicted, the length of sentence  
7           they received, and the judicial district in which  
8           they were sentenced to track whether unwar-  
9           ranted sentencing disparities are occurring in  
10          certain districts.

11          (2) An analysis of current and projected sav-  
12          ings associated with this Act and the amendments  
13          made by this Act.

14          (3) Developments in training and development  
15          and research on the Department of Justice in con-  
16          junction with the Department of Defense, on non-  
17          lethal tools of policing.

18          (b) ANNUAL REPORTS BY THE DIRECTOR OF THE  
19          BUREAU OF PRISONS.—Not later than January 1, 2016,  
20          and every January 1 thereafter, the Director of the Bu-  
21          reau of Prisons, in consultation with the Inspector General  
22          of the Department of Justice, shall submit to Congress  
23          a report that contains the following information, cat-  
24          egorized by race, national origin, gender, age, and religion:

25                 (1) PRISON DATA.—

1 (A) The number of offenders entering pris-  
2 on on a new offense.

3 (B) The number of offenders entering pris-  
4 on on a revocation of supervision.

5 (C) The average sentence length for a new  
6 prison sentences by offense type.

7 (D) The average sentence length for of-  
8 fenders entering prison for a probation revoca-  
9 tion.

10 (E) The average sentence length for of-  
11 fenders entering prison for a supervised release  
12 revocation.

13 (F) The average percentage of the sen-  
14 tence imposed served in prison as compared to  
15 community, home, or residential reentry center.

16 (G) The average percentage of prison sen-  
17 tence served in prison by offense type for of-  
18 fenders entering on a new offense.

19 (H) The number of offenders in solitary  
20 confinement, including their race, gender, age,  
21 reason for solitary confinement, length of stay  
22 in solitary confinement, the number of total  
23 stays in solitary confinement, the total time of  
24 stay in solitary confinement, and the number of  
25 those offenders with mental health issues, cog-

1           nitive deficits, substance abuse issues, or com-  
2           bat-related post-traumatic stress disorder.

3           (I) Total prison population by offense type  
4           and by the type of admission into prison.

5           (J) Recidivism rate by offense type.

6           (2) DATA RELATED TO EXPANDED EARNED  
7           TIME CREDIT AND RECIDIVISM REDUCTION PRO-  
8           GRAMMING.—

9           (A) The number and percentage of offend-  
10          ers who have earned time credit in the prior  
11          year.

12          (B) The average amount of time credit  
13          earned per offender in the prior year.

14          (C) The average amount of time credit  
15          earned by offenders released from prison in the  
16          prior year.

17          (D) Additional information as requested by  
18          the relevant committees.

19          (E) A summary and assessment of the  
20          types and effectiveness of the recidivism reduc-  
21          tion programs and productive activities in facili-  
22          ties operated by the Director of the Bureau of  
23          Prisons, including—

- 1 (i) evidence about which programs  
2 and activities have been shown to reduce  
3 recidivism;
- 4 (ii) the capacity of each program and  
5 activity at each facility, including the num-  
6 ber of prisoners enrolled in each program  
7 and activity; and
- 8 (iii) identification of any problems or  
9 shortages in capacity of such programs  
10 and activities, and how they should be  
11 remedied.

12 (3) DATA RELATED TO RELEASE TO EXTENDED  
13 SUPERVISION FOR CERTAIN MEDICALLY INCAPACI-  
14 TATED AND GERIATRIC PRISONERS.—

15 (A) The number of offenders who peti-  
16 tioned for release to extended supervision pur-  
17 suant to section 3582(c)(1)(A) of title 18,  
18 United States Code.

19 (B) The number of offenders who peti-  
20 tioned and were denied release to extended su-  
21 pervision pursuant to section 3582(c)(1)(A) of  
22 title 18, United States Code, and the common  
23 reasons for denial.

24 (C) The number of offenders released to  
25 extended supervision pursuant to section

1           3582(c)(1)(A) of title 18, United States Code,  
2           who were revoked in the previous year.

3           (c) ANNUAL REPORTS BY THE DIRECTOR OF THE  
4 ADMINISTRATIVE OFFICE OF THE COURTS.—Not later  
5 than January 1, 2016, and every January 1 thereafter,  
6 the Director of the Administrative Office of the Courts,  
7 in consultation with the Judicial Conference, shall submit  
8 to the appropriate committees of Congress, and publish  
9 publically, a report that contains the following:

10           (1) PROBATION DATA.—

11                   (A) The number of offenders sentenced to  
12 probation in the previous year.

13                   (B) The number of offenders supervised on  
14 probation.

15                   (C) The number of probationers revoked  
16 for a technical violation.

17                   (D) The number of probationers who were  
18 convicted of a new felony offense and sentenced  
19 to a term of imprisonment, in either a local,  
20 State, or Federal facility.

21           (2) SUPERVISED RELEASE DATA.—

22                   (A) The number of offenders placed on  
23 postrelease supervision in the following year.

24                   (B) The number of offenders supervised on  
25 postrelease supervision.

1 (C) The number of offenders on supervised  
2 release revoked for a technical violation.

3 (D) The number of offenders on supervised  
4 released who were convicted of a new felony of-  
5 fense and sentenced to a term of imprisonment,  
6 in either a local, State, or Federal facility.

7 (3) DATA RELATED TO THE IMPOSITION OF  
8 THE GRADUATED SANCTIONING SYSTEM.—

9 (A) The number and percentage of offend-  
10 ers who have one or more violations during the  
11 year.

12 (B) The average number of violations per  
13 offender during the year.

14 (4) DATA RELATED TO THE IMPOSITION OF  
15 EARNED TIME CREDITS.—

16 (A) The number and percentage of offend-  
17 ers who qualify for earned discharge in one or  
18 more months of the year.

19 (B) The average amount of credits earned  
20 per offender within the year.

21 (C) The average probation sentence length  
22 for offenders sentenced to Federal probation.

23 (D) The average supervision sentence  
24 length for offenders released to supervised re-  
25 lease.

1 (E) The average time spent on Federal  
2 probation for offenders successfully completing  
3 probation.

4 (F) The average time spent on supervised  
5 release for offenders successfully completing su-  
6 pervised release.

7 (5) DATA RELATED TO PROBLEM-SOLVING  
8 COURTS.—

9 (A) Total number of participants.

10 (B) Total number of successful partici-  
11 pants.

12 (C) Total number of unsuccessful partici-  
13 pants.

14 (D) Total number of participants who were  
15 arrested for a new criminal offense while in the  
16 problem-solving court program.

17 (E) Total number of participants who were  
18 convicted of a new felony or misdemeanor of-  
19 fense while in the problem-solving court pro-  
20 gram.

21 (F) Any other data or information as re-  
22 quired by the relevant committees.

23 (d) DEFINITIONS.—In this title, the following defini-  
24 tions apply:

1           (1) RECIDIVISM.—The term “recidivism”  
2 means the return to Federal prison of an offender  
3 not later than 3 years after the date of release.

4           (2) SUPERVISION.—The term “supervision” has  
5 the meaning given that term in section 3609 of title  
6 18, United States Code.

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