

114TH CONGRESS  
1ST SESSION

# H. R. 3470

To prohibit Federal agencies and Federal contractors from requesting that an applicant for employment disclose criminal history record information before the applicant has received a conditional offer, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2015

Mr. CUMMINGS (for himself, Mr. ISSA, Ms. JACKSON LEE, Mr. BLUMENAUER, Mrs. WATSON COLEMAN, Mr. RICHMOND, Mr. CONYERS, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on House Administration, the Judiciary, Armed Services, and Education and the Workforce, 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 prohibit Federal agencies and Federal contractors from requesting that an applicant for employment disclose criminal history record information before the applicant has received a conditional offer, and for other purposes.

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 “Fair Chance to Com-  
5 pete for Jobs Act of 2015” or the “Fair Chance Act”.

1 **SEC. 2. PROHIBITION ON CRIMINAL HISTORY INQUIRIES**  
2 **PRIOR TO CONDITIONAL OFFER FOR FED-**  
3 **ERAL EMPLOYMENT.**

4 (a) IN GENERAL.—Subpart H of part III of title 5,  
5 United States Code, is amended by adding at the end the  
6 following:

7 **“CHAPTER 92—PROHIBITION ON CRIMI-**  
8 **NAL HISTORY INQUIRIES PRIOR TO**  
9 **CONDITIONAL OFFER**

“Sec.

“9201. Definitions.

“9202. Limitations on requests for criminal history record information.

“9203. Agency policies; whistleblower complaint procedures.

“9204. Adverse action.

“9205. Procedures.

“9206. Rules of construction.

10 **“§ 9201. Definitions**

11 “In this chapter—

12 “(1) the term ‘agency’ means ‘Executive agen-

13 cy’ as such term is defined in section 105 and in-

14 cludes—

15 “(A) the United States Postal Service and

16 the Postal Regulatory Commission; and

17 “(B) the Executive Office of the President;

18 “(2) the term ‘appointing authority’ means an

19 employee in the executive branch of the Government

20 of the United States that has authority to make ap-

21 pointments to positions in the civil service;

1           “(3) the term ‘conditional offer’ means an offer  
2 of employment in a position in the civil service that  
3 is conditioned upon the results of a criminal history  
4 inquiry;

5           “(4) the term ‘criminal history record informa-  
6 tion’—

7           “(A) except as provided in subparagraph  
8 (B), has the meaning given the term in section  
9 9101(a);

10           “(B) includes any information described in  
11 the first sentence of section 9101(a)(2) that has  
12 been sealed or expunged pursuant to law; and

13           “(C) includes information collected by a  
14 criminal justice agency, relating to an act or al-  
15 leged act of juvenile delinquency, that is analo-  
16 gous to criminal history record information (in-  
17 cluding such information that has been sealed  
18 or expunged pursuant to law); and

19           “(5) the term ‘suspension’ has the meaning  
20 given the term in section 7501.

21 **“§ 9202. Limitations on requests for criminal history**  
22 **record information**

23           “(a) INQUIRIES PRIOR TO CONDITIONAL OFFER.—  
24 Except as provided in subsections (b) and (c), an employee  
25 of an agency may not request, in oral or written form (in-

1 cluding through the Declaration for Federal Employment  
2 (OPM Optional Form 306), or any similar successor  
3 form), including through the USA Jobs Internet Web site  
4 or any other electronic means, that an applicant for an  
5 appointment to a position in the civil service disclose  
6 criminal history record information regarding the appli-  
7 cant before the appointing authority extends a conditional  
8 offer to the applicant.

9       “(b) OTHERWISE REQUIRED BY LAW.—The prohibi-  
10 tion under subsection (a) shall not apply with respect to  
11 an applicant for a position in the civil service if consider-  
12 ation of criminal history record information prior to a con-  
13 ditional offer with respect to the position is otherwise re-  
14 quired by law.

15       “(c) EXCEPTION FOR SENSITIVE POSITIONS.—The  
16 prohibition under subsection (a) shall not apply with re-  
17 spect to an applicant for an appointment to a position—

18               “(1) that requires a determination of eligibility  
19       described in subparagraph (A), (B), or (C) of section  
20       9101(b)(1); or

21               “(2) as a Federal law enforcement officer (as  
22       defined in section 115(c) of title 18).

1 **“§ 9203. Agency policies; whistleblower complaint**  
2 **procedures**

3 “The Director of the Office of Personnel Manage-  
4 ment shall—

5 “(1) develop, implement, and publish a policy to  
6 assist employees of agencies in complying with sec-  
7 tion 9202 and the regulations issued pursuant to  
8 such section; and

9 “(2) establish and publish procedures under  
10 which an applicant for an appointment to a position  
11 in the civil service may submit to the Office of Per-  
12 sonnel Management a complaint, or any other infor-  
13 mation, relating to compliance by an employee of an  
14 agency with section 9202.

15 **“§ 9204. Adverse action**

16 “(a) FIRST VIOLATION.—If the Director of the Office  
17 of Personnel Management determines, after notice and an  
18 opportunity for a hearing on the record, that an employee  
19 of an agency has violated section 9202, the Director  
20 shall—

21 “(1) issue to the employee a written warning  
22 that includes a description of the violation and the  
23 additional penalties that may apply for subsequent  
24 violations; and

25 “(2) file such warning in the employee’s official  
26 personnel record file.

1       “(b) SUBSEQUENT VIOLATIONS.—If the Director of  
2 the Office of Personnel Management determines, after no-  
3 tice and an opportunity for a hearing on the record, that  
4 an employee that was subject to subsection (a) has com-  
5 mitted a subsequent violation of section 9202, the Director  
6 may take the following action:

7           “(1) For a second violation, suspension of the  
8 employee for a period of not more than 7 days.

9           “(2) For a third violation, suspension of the  
10 employee for a period of more than 7 days.

11          “(3) For a fourth violation—

12           “(A) suspension of the employee for a pe-  
13 riod of more than 7 days; and

14           “(B) a civil penalty against the employee  
15 in an amount that is not more than \$250.

16          “(4) For a fifth violation—

17           “(A) suspension of the employee for a pe-  
18 riod of more than 7 days; and

19           “(B) a civil penalty against the employee  
20 in an amount that is not more than \$500.

21          “(5) For any subsequent violation—

22           “(A) suspension of the employee for a pe-  
23 riod of more than 7 days; and

24           “(B) a civil penalty against the employee  
25 in an amount that is not more than \$1,000.

1 **“§ 9205. Procedures**

2 “(a) APPEALS.—The Director of the Office of Per-  
3 sonnel Management shall by rule establish procedures pro-  
4 viding for an appeal from any adverse action taken under  
5 section 9204 by not later than 30 days after the date of  
6 the action.

7 “(b) APPLICABILITY OF OTHER LAWS.—An adverse  
8 action taken under section 9204 (including a determina-  
9 tion in an appeal from such an action under subsection  
10 (a) of this section) shall not be subject to—

11 “(1) the procedures under chapter 75; or

12 “(2) except as provided in subsection (a) of this  
13 section, appeal or judicial review.

14 **“§ 9206. Rules of construction**

15 “Nothing in this chapter may be construed to—

16 “(1) authorize any officer or employee of an  
17 agency to request the disclosure of information de-  
18 scribed under subparagraphs (B) and (C) of section  
19 9201(4); or

20 “(2) create a private right of action for any  
21 person.”.

22 (b) REGULATIONS; EFFECTIVE DATE.—

23 (1) REGULATIONS.—Not later than 1 year after  
24 the date of enactment of this Act, the Director of  
25 the Office of Personnel Management shall issue such  
26 regulations as are necessary to carry out chapter 92

1 of title 5, United States Code (as added by this  
2 Act).

3 (2) EFFECTIVE DATE.—Section 9202 of title 5,  
4 United States Code (as added by this Act), shall  
5 take effect on the date that is 2 years after the date  
6 of enactment of this Act.

7 (c) TECHNICAL AND CONFORMING AMENDMENT.—  
8 The table of chapters for part III of title 5, United States  
9 Code, is amended by inserting after the item relating to  
10 chapter 91 the following:

**“92. Prohibition on criminal history inquiries prior to  
conditional offer ..... 9201”.**

11 (d) APPLICATION TO LEGISLATIVE BRANCH.—

12 (1) IN GENERAL.—Part A of title II of the Con-  
13 gressional Accountability Act of 1995 (2 U.S.C.  
14 1311 et seq.) is amended—

15 (A) in section 102(a) (2 U.S.C. 1302(a)),  
16 by adding at the end the following:

17 “(12) Section 9202 of title 5, United States  
18 Code.”;

19 (B) by redesignating section 207 (2 U.S.C.  
20 1317) as section 208; and

21 (C) by inserting after section 206 (2  
22 U.S.C. 1316) the following new section:



1 **“SEC. 207. RIGHTS AND PROTECTIONS RELATING TO CRIMI-**  
2 **NAL HISTORY INQUIRIES.**

3 “(a) DEFINITIONS.—In this section, the terms ‘agen-  
4 cy’, ‘criminal history record information’, and ‘suspension’  
5 have the meanings given the terms in section 9201 of title  
6 5, United States Code, except as otherwise modified by  
7 this section.

8 “(b) RESTRICTIONS ON CRIMINAL HISTORY INQUIR-  
9 IES.—

10 “(1) IN GENERAL.—An employee of an employ-  
11 ing office may not request that an applicant for em-  
12 ployment as a covered employee disclose criminal  
13 history record information if the request would be  
14 prohibited under section 9202 of title 5, United  
15 States Code, if made by an employee of an agency.

16 “(2) RULES OF CONSTRUCTION.—The provi-  
17 sions of section 9206 of title 5, United States Code,  
18 shall apply to employing offices, consistent with reg-  
19 ulations issued under subsection (d).

20 “(c) REMEDY.—

21 “(1) IN GENERAL.—The remedy for a violation  
22 of subsection (b)(1) shall be such remedy as would  
23 be appropriate if awarded under section 9204 of title  
24 5, United States Code, if the violation had been  
25 committed by an employee of an agency, consistent  
26 with regulations issued under subsection (d), except

1 that the reference in that section to a suspension  
2 shall be considered to be a suspension with the level  
3 of compensation provided for a covered employee  
4 who is taking unpaid leave under section 202.

5 “(2) PROCESS FOR OBTAINING RELIEF.—An  
6 applicant for employment as a covered employee who  
7 alleges a violation of subsection (b)(1) may rely on  
8 the provisions of title IV (other than sections  
9 404(2), 407, and 408), consistent with regulations  
10 issued under subsection (d).

11 “(d) REGULATIONS TO IMPLEMENT SECTION.—

12 “(1) IN GENERAL.—Not later than 18 months  
13 after the date of enactment of the Fair Chance to  
14 Compete for Jobs Act of 2015, the Board shall, pur-  
15 suant to section 304, issue regulations to implement  
16 this section.

17 “(2) PARALLEL WITH AGENCY REGULATIONS.—

18 The regulations issued under paragraph (1) shall be  
19 the same as substantive regulations issued by the  
20 Director of the Office of Personnel Management  
21 under section 2(b)(1) of the Fair Chance to Com-  
22 pete for Jobs Act of 2015 to implement the statu-  
23 tory provisions referred to in subsections (a) through  
24 (c) except to the extent that the Board may deter-  
25 mine, for good cause shown and stated together with

1 the regulation, that a modification of such regula-  
2 tions would be more effective for the implementation  
3 of the rights and protections under this section.

4 “(e) EFFECTIVE DATE.—Section 102(a)(12) and  
5 subsections (a) through (c) shall take effect on the date  
6 on which section 9202 of title 5, United States Code, ap-  
7 plies with respect to agencies.”.

8 (2) CLERICAL AMENDMENT.—The table of con-  
9 tents of such Act is amended—

10 (A) by redesignating the item relating to  
11 section 207 as the item relating to section 208;  
12 and

13 (B) by inserting after the item relating to  
14 section 206 the following new item:

“Sec. 207. Rights and protections relating to criminal history inquiries.”.

15 (e) APPLICATION TO JUDICIAL BRANCH.—

16 (1) IN GENERAL.—Section 604 of title 28,  
17 United States Code, is amended by adding at the  
18 end the following:

19 “(i) RESTRICTIONS ON CRIMINAL HISTORY INQUIR-  
20 IES.—

21 “(1) DEFINITIONS.—In this subsection—

22 “(A) the terms ‘agency’ and ‘criminal his-  
23 tory record information’ have the meanings  
24 given those terms in section 9201 of title 5;

1           “(B) the term ‘covered employee’ means an  
2           employee of the judicial branch of the United  
3           States Government, other than—

4                   “(i) any judge or justice who is enti-  
5                   tled to hold office during good behavior;

6                   “(ii) a United States magistrate  
7                   judge; or

8                   “(iii) a bankruptcy judge; and

9           “(C) the term ‘employing office’ means any  
10          office or entity of the judicial branch of the  
11          United States Government that employs covered  
12          employees.

13          “(2) RESTRICTION.—A covered employee may  
14          not request that an applicant for employment as a  
15          covered employee disclose criminal history record in-  
16          formation if the request would be prohibited under  
17          section 9202 of title 5 if made by an employee of an  
18          agency.

19          “(3) EMPLOYING OFFICE POLICIES; WHISTLE-  
20          BLOWER COMPLAINT PROCEDURE.—The provisions  
21          of sections 9203 and 9206 of title 5 shall apply to  
22          employing offices and to applicants for employment  
23          as covered employees, consistent with regulations  
24          issued by the Director to implement this subsection.

25          “(4) ADVERSE ACTION.—

1           “(A) ADVERSE ACTION.—The Director  
2 may take such adverse action with respect to a  
3 covered employee who violates paragraph (2) as  
4 would be appropriate under section 9204 of  
5 title 5 if the violation had been committed by  
6 an employee of an agency.

7           “(B) APPEALS.—The Director shall by  
8 rule establish procedures providing for an ap-  
9 peal from any adverse action taken under sub-  
10 paragraph (A) by not later than 30 days after  
11 the date of the action.

12           “(C) APPLICABILITY OF OTHER LAWS.—  
13 Except as provided in subparagraph (B), an ad-  
14 verse action taken under subparagraph (A) (in-  
15 cluding a determination in an appeal from such  
16 an action under subparagraph (B)) shall not be  
17 subject to appeal or judicial review.

18           “(5) REGULATIONS TO BE ISSUED.—

19           “(A) IN GENERAL.—Not later than 18  
20 months after the date of enactment of the Fair  
21 Chance to Compete for Jobs Act of 2015, the  
22 Director shall issue regulations to implement  
23 this subsection.

24           “(B) PARALLEL WITH AGENCY REGULA-  
25 TIONS.—The regulations issued under subpara-

1 graph (A) shall be the same as substantive reg-  
2 ulations promulgated by the Director of the Of-  
3 fice of Personnel Management under section  
4 2(b)(1) of the Fair Chance to Compete for Jobs  
5 Act of 2015 except to the extent that the Direc-  
6 tor of the Administrative Office of the United  
7 States Courts may determine, for good cause  
8 shown and stated together with the regulation,  
9 that a modification of such regulations would be  
10 more effective for the implementation of the  
11 rights and protections under this subsection.

12 “(6) EFFECTIVE DATE.—Paragraphs (1)  
13 through (4) shall take effect on the date on which  
14 section 9202 of title 5 applies with respect to agen-  
15 cies.”.

16 **SEC. 3. PROHIBITION ON CRIMINAL HISTORY INQUIRIES BY**  
17 **CONTRACTORS PRIOR TO CONDITIONAL**  
18 **OFFER.**

19 (a) CIVILIAN AGENCY CONTRACTS.—

20 (1) IN GENERAL.—Division C of subtitle I of  
21 title 41, United States Code, is amended by adding  
22 at the end the following new section:

1 **“§ 4713. Prohibition on criminal history inquiries by**  
2 **contractors prior to conditional offer**

3 “(a) LIMITATION ON CRIMINAL HISTORY INQUIR-  
4 IES.—

5 “(1) IN GENERAL.—Except as provided in para-  
6 graphs (2) and (3), an executive agency—

7 “(A) may not require that an individual or  
8 sole proprietor who submits a bid for a contract  
9 to disclose criminal history record information  
10 regarding that individual or sole proprietor be-  
11 fore determining the apparent awardee; and

12 “(B) shall require as a condition of receiv-  
13 ing a Federal contract and receiving payments  
14 under such contract that the contractor may  
15 not verbally or through written form request  
16 the disclosure of criminal history record infor-  
17 mation regarding an applicant for a position re-  
18 lated to work under such contract before the  
19 contractor extends a conditional offer to the ap-  
20 plicant.

21 “(2) OTHERWISE REQUIRED BY LAW.—The  
22 prohibition under paragraph (1) does not apply with  
23 respect to a contract if consideration of criminal his-  
24 tory record information prior to a conditional offer  
25 with respect to the position is otherwise required by  
26 law.

1           “(3) EXCEPTION FOR SENSITIVE POSITIONS.—

2           The prohibition under paragraph (1) does not apply  
3           with respect to a contract that requires an individual  
4           hired under the contract to access classified informa-  
5           tion or to have sensitive law enforcement or national  
6           security duties.

7           “(b) WHISTLEBLOWER COMPLAINT PROCEDURES.—

8           The Administrator of General Services shall establish and  
9           publish procedures under which an applicant for a position  
10          with a Federal contractor may submit to the Adminis-  
11          trator a complaint, or any other information, relating to  
12          compliance by the contractor with subsection (a)(1)(B).

13          “(c) ADVERSE ACTION FOR VIOLATIONS OF PROHIBI-  
14          TION ON CRIMINAL HISTORY INQUIRIES.—

15                 “(1) FIRST VIOLATION.—If the head of an execu-  
16                 utive agency determines that a contractor has vio-  
17                 lated subsection (a)(1)(B), such head shall—

18                         “(A) notify the contractor;

19                         “(B) provide 30 days after such notifica-  
20                         tion for the contractor to appeal the determina-  
21                         tion; and

22                         “(C) issue a written warning to the con-  
23                         tractor that includes a description of the viola-  
24                         tion and the additional penalties that may apply  
25                         for subsequent violations.



1           “(2) SUBSEQUENT VIOLATION.—If the head of  
2           an executive agency determines that a contractor  
3           that was subject to paragraph (1) has committed a  
4           subsequent violation of subsection (a)(1)(B), such  
5           head shall notify the contractor, shall provide 30  
6           days after such notification for the contractor to ap-  
7           peal the determination, and, in consultation with the  
8           relevant Federal agencies, may take actions, depend-  
9           ing on the severity of the infraction and the contrac-  
10          tor’s history of violations, including—

11                   “(A) providing written guidance to the  
12                   contractor that the contractor’s eligibility for  
13                   contracts requires compliance with this section;

14                   “(B) requiring that the contractor respond  
15                   within 30 days affirming that the contractor is  
16                   taking steps to comply with this section;

17                   “(C) suspending payment under the con-  
18                   tract for which the applicant was being consid-  
19                   ered;

20                   “(D) terminating the contract under which  
21                   the applicant was being considered; and

22                   “(E) referring the contractor to the sus-  
23                   pension and debarment office of the agency for  
24                   consideration of actions pursuant to section 9.4  
25                   of the Federal Acquisition Regulation.

1 “(d) DEFINITIONS.—In this section:

2 “(1) CONDITIONAL OFFER.—The term ‘condi-  
3 tional offer’ means an offer of employment for a po-  
4 sition related to work under a contract that is condi-  
5 tioned upon the results of a criminal history inquiry.

6 “(2) CRIMINAL HISTORY RECORD INFORMA-  
7 TION.—The term ‘criminal history record informa-  
8 tion’ has the meaning given that term in section  
9 9201 of title 5.”.

10 (2) CLERICAL AMENDMENT.—The table of sec-  
11 tions for division C of subtitle I of title 41, United  
12 States Code, is amended by inserting after the item  
13 relating to section 4712 the following new item:

“4713. Prohibition on criminal history inquiries by contractors prior to condi-  
tional offer.”.

14 (3) EFFECTIVE DATE.—Section 4713(a) of title  
15 41, United States Code, as added by paragraph (1),  
16 shall apply with respect to contracts awarded pursu-  
17 ant to solicitations issued after the effective date de-  
18 scribed in section 2(b)(2).

19 (b) DEFENSE CONTRACTS.—

20 (1) IN GENERAL.—Chapter 137 of title 10,  
21 United States Code, is amended by adding at the  
22 end the following new section:

1 **“§ 2338. Prohibition on criminal history inquiries by**  
2 **contractors prior to conditional offer**

3 “(a) LIMITATION ON CRIMINAL HISTORY INQUIR-  
4 IES.—

5 “(1) IN GENERAL.—Except as provided in para-  
6 graphs (2) and (3), the head of an agency—

7 “(A) may not require that an individual or  
8 sole proprietor who submits a bid for a contract  
9 to disclose criminal history record information  
10 regarding that individual or sole proprietor be-  
11 fore determining the apparent awardee; and

12 “(B) shall require as a condition of receiv-  
13 ing a Federal contract and receiving payments  
14 under such contract that the contractor may  
15 not verbally or through written form request  
16 the disclosure of criminal history record infor-  
17 mation regarding an applicant for a position re-  
18 lated to work under such contract before such  
19 contractor extends a conditional offer to the ap-  
20 plicant.

21 “(2) OTHERWISE REQUIRED BY LAW.—The  
22 prohibition under paragraph (1) does not apply with  
23 respect to a contract if consideration of criminal his-  
24 tory record information prior to a conditional offer  
25 with respect to the position is otherwise required by  
26 law.

1           “(3) EXCEPTION FOR SENSITIVE POSITIONS.—

2           The prohibition under paragraph (1) does not apply  
3           with respect to a contract that requires an individual  
4           hired under the contract to access classified informa-  
5           tion or to have sensitive law enforcement or national  
6           security duties.

7           “(b) WHISTLEBLOWER COMPLAINT PROCEDURES.—

8           The Secretary of Defense shall establish and publish pro-  
9           cedures under which an applicant for a position with a  
10          Department of Defense contractor may submit a com-  
11          plaint, or any other information, relating to compliance  
12          by the contractor with subsection (a)(1)(B).

13          “(c) ADVERSE ACTION FOR VIOLATIONS OF PROHIBI-  
14          TION ON CRIMINAL HISTORY INQUIRIES.—

15                 “(1) FIRST VIOLATION.—If the Secretary of  
16          Defense determines that a contractor has violated  
17          subsection (a)(1)(B), the Secretary shall—

18                         “(A) notify the contractor;

19                         “(B) provide 30 days after such notifica-  
20          tion for the contractor to appeal the determina-  
21          tion; and

22                         “(C) issue a written warning to the con-  
23          tractor that includes a description of the viola-  
24          tion and the additional penalties that may apply  
25          for subsequent violations.

1           “(2) SUBSEQUENT VIOLATIONS.—If the Sec-  
2           retary of Defense determines that a contractor that  
3           was subject to paragraph (1) has committed a sub-  
4           sequent violation of subsection (a)(1)(B), the Sec-  
5           retary shall notify the contractor, shall provide 30  
6           days after such notification for the contractor to ap-  
7           peal the determination, and, in consultation with the  
8           relevant Federal agencies, may take actions, depend-  
9           ing on the severity of the infraction and the contrac-  
10          tor’s history of violations, including—

11                   “(A) providing written guidance to the  
12                   contractor that the contractor’s eligibility for  
13                   contracts requires compliance with this section;

14                   “(B) requiring that the contractor respond  
15                   within 30 days affirming that the contractor is  
16                   taking steps to comply with this section;

17                   “(C) suspending payment under the con-  
18                   tract for which the applicant was being consid-  
19                   ered;

20                   “(D) terminating the contract under which  
21                   the applicant was being considered; and

22                   “(E) referring the contractor to the sus-  
23                   pension and debarment office of the agency for  
24                   consideration of actions pursuant to section 9.4  
25                   of the Federal Acquisition Regulation.

1 “(d) DEFINITIONS.—In this section:

2 “(1) CONDITIONAL OFFER.—The term ‘condi-  
3 tional offer’ means an offer of employment for a po-  
4 sition related to work under a contract that is condi-  
5 tioned upon the results of a criminal history inquiry.

6 “(2) CRIMINAL HISTORY RECORD INFORMA-  
7 TION.—The term ‘criminal history record informa-  
8 tion’ has the meaning given that term in section  
9 9201 of title 5.”.

10 (2) EFFECTIVE DATE.—Section 2338(a) of title  
11 10, United States Code, as added by paragraph (1),  
12 shall apply with respect to contracts awarded pursu-  
13 ant to solicitations issued after the effective date de-  
14 scribed in section 2(b)(2).

15 (3) CLERICAL AMENDMENT.—The table of sec-  
16 tions for chapter 137 of title 10, United States  
17 Code, is amended by inserting after the item relating  
18 to section 2337 the following new item:

“2338. Prohibition on criminal history inquiries by contractors prior to condi-  
tional offer.”.

19 (e) REVISIONS TO FEDERAL ACQUISITION REGULA-  
20 TION.—

21 (1) IN GENERAL.—Not later than 18 months  
22 after the date of enactment of this Act, the Federal  
23 Acquisition Regulatory Council shall revise the Fed-  
24 eral Acquisition Regulation to implement section

1 4713 of title 41, United States Code, and section  
2 2338 of title 10, United States Code, as added by  
3 this section.

4 (2) CONFORMITY WITH OFFICE OF PERSONNEL  
5 MANAGEMENT REGULATIONS.—The Federal Acquisi-  
6 tion Regulatory Council shall revise the Federal Ac-  
7 quisition Regulation under paragraph (1) in con-  
8 formity with the regulations issued by the Director  
9 of the Office of Personnel Management under sec-  
10 tion 2(b)(1) to the maximum extent practicable. The  
11 Council shall include together with such revision an  
12 explanation of any substantive modification of the  
13 Office of Personnel Management regulations, includ-  
14 ing an explanation of how such modification will  
15 more effectively implement the rights and protec-  
16 tions under this section.

17 **SEC. 4. REPORT ON EMPLOYMENT OF INDIVIDUALS FOR-**  
18 **MERLY INCARCERATED IN FEDERAL PRIS-**  
19 **ONS.**

20 (a) DEFINITION.—In this section, the term “covered  
21 individual”—

22 (1) means an individual who has completed a  
23 term of imprisonment in a Federal prison for a Fed-  
24 eral criminal offense; and

1           (2) does not include an alien who is or will be  
2 removed from the United States for a violation of  
3 the immigration laws (as such term is defined in sec-  
4 tion 101 of the Immigration and Nationality Act (8  
5 U.S.C. 1101)).

6           (b) STUDY AND REPORT REQUIRED.—Not later than  
7 6 months after the date of enactment of this Act, and  
8 every 5 years thereafter, the Secretary of Labor, in coordi-  
9 nation with the Director of the Bureau of the Census and  
10 the Director of the Bureau of Justice Statistics, shall—

11           (1) conduct a study on the employment of cov-  
12 ered individuals after their release from Federal  
13 prison, including by collecting—

14                   (A) demographic data on covered individ-  
15 uals, including race, age, and sex; and

16                   (B) data on covered individuals who are  
17 denied employment, including the reasons for  
18 the denials; and

19           (2) submit a report that does not include any  
20 personally identifiable information on the study con-  
21 ducted under paragraph (1) to—

22                   (A) the Committee on Homeland Security  
23 and Governmental Affairs of the Senate;

24                   (B) the Committee on Health, Education,  
25 Labor, and Pensions of the Senate;



1                   (C) the Committee on Oversight and Gov-  
2                   ernment Reform of the House of Representa-  
3                   tives; and

4                   (D) the Committee on Education and the  
5                   Workforce of the House of Representatives.

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