S. 2123

To reform sentencing laws and correctional institutions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 2015

Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. CORNYN, Mr. WHITEHOUSE, Mr. LEE, Mr. SCHUMER, Mr. GRAHAM, Mr. LEAHY, Mr. BOOKER, and Mr. SCOTT) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reform sentencing laws and correctional institutions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Sentencing Reform and Corrections Act of 2015”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SENTENCING REFORM

Sec. 101. Reduce and restrict enhanced sentencing for prior drug felonies.
Sec. 102. Broadening of existing safety valve.
Sec. 103. Limitation on application of the 10-year mandatory minimum.
Sec. 104. Clarification of section 924(c) of title 18, United States Code.
Sec. 105. Amendment to certain penalties for certain firearm offenses and
armed career criminal provision.
Sec. 106. Application of Fair Sentencing Act.
Sec. 107. Mandatory minimum sentences for domestic violence offenses.
Sec. 108. Minimum term of imprisonment for certain acts relating to the provi-
sion of controlled goods or services to terrorists or proliferators
of weapons of mass destruction.
Sec. 109. Inventory of Federal criminal offenses.

TITLE II—CORRECTIONS ACT

Sec. 201. Short title.
Sec. 202. Recidivism reduction programming and productive activities.
Sec. 203. Post-sentencing risk and needs assessment system.
Sec. 204. Prerelease custody.
Sec. 205. Reports.
Sec. 206. Additional tools to promote recovery and prevent drug and alcohol
abuse and dependence.
Sec. 207. Eric Williams Correctional Officer Protection Act.
Sec. 208. Promoting successful reentry.
Sec. 209. Parole for juveniles.
Sec. 211. Juvenile sealing and expungement.
Sec. 212. Juvenile solitary confinement.
Sec. 213. Ensuring accuracy of Federal criminal records.

1 TITLE I—SENTENCING REFORM

2 SEC. 101. REDUCE AND RESTRICT ENHANCED SENTENCING
FOR PRIOR DRUG FELONIES.

3 (a) CONTROLLED SUBSTANCES ACT AMEND-
MENTS.—The Controlled Substances Act (21 U.S.C. 801
et seq.) is amended—

4 (1) in section 102 (21 U.S.C. 802), by adding
at the end the following:

5 “(57) The term ‘serious drug felony’ means an
offense described in section 924(c)(2)(A) of title 18,
United States Code, for which the offender served a
term of imprisonment of more than 12 months.
“(58) The term ‘serious violent felony’ means—

“(A) an offense described in section 3559(c)(2)(F) of title 18, United States Code, for which the offender served a term of imprisonment of more than 12 months; and

“(B) any offense that would be a felony violation of section 113 of title 18, United States Code, if the offense were committed in the special maritime and territorial jurisdiction of the United States, for which the offender served a term of imprisonment of more than 12 months.”; and

(2) in section 401(b)(1) (21 U.S.C. 841(b)(1))—

(A) in subparagraph (A), in the flush text following clause (viii)—

(i) by striking “If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years” and inserting the following: “If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final,
such person shall be sentenced to a term of
imprisonment of not less than 15 years’’; and

(ii) by striking “after two or more
prior convictions for a felony drug offense
have become final, such person shall be
sentenced to a mandatory term of life im-
prisonment without release” and inserting
the following: “after 2 or more prior con-
victions for a serious drug felony or serious
violent felony have become final, such per-
son shall be sentenced to a term of impris-
onment of not less than 25 years”; and

(B) in subparagraph (B), in the flush text
following clause (viii), by striking “If any per-
son commits such a violation after a prior con-
viction for a felony drug offense has become
final” and inserting the following: “If any per-
son commits such a violation after a prior con-
viction for a serious drug felony or serious vio-
lent felony has become final”.

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT

ACT AMENDMENTS.—Section 1010(b) of the Controlled
Substances Import and Export Act (21 U.S.C. 960(b)) is
amended—
(1) in paragraph (1), in the flush text following subparagraph (H), by striking “If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not less than 20 years” and inserting “If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person shall be sentenced to a term of imprisonment of not less than 15 years”; and

(2) in paragraph (2), in the flush text following subparagraph (H), by striking “felony drug offense” and inserting “serious drug felony or serious violent felony”.

(e) APPLICABILITY TO PENDING AND PAST CASES.—

(1) PENDING CASES.—This section, and the amendments made by this section, shall apply to any offense that was committed before the date of enactment of this Act, if a sentence for the offense has not been imposed as of such date of enactment.

(2) PAST CASES.—In the case of a defendant who, before the date of enactment of this Act, was convicted of an offense for which the penalty is amended by this section and was sentenced to a
term of imprisonment for the offense, the sentencing
court may, on motion of the defendant or the Direc-
tor of the Bureau of Prisons, or on its own motion,
upon prior notice to the Government, reduce the
term of imprisonment for the offense, after consid-
ering the factors set forth in section 3553(a) of title
18, United States Code, the nature and seriousness
of the danger to any person or the community, and
the post-sentencing conduct of the defendant, if such
a reduction is consistent with this section and the
amendments made by this section.

SEC. 102. BROADENING OF EXISTING SAFETY VALVE.

(a) AMENDMENTS.—Section 3553 of title 18, United
States Code, is amended—

(1) in subsection (f), by striking paragraph (1)
and inserting the following:

“(1) the defendant does not have—

“(A) more than 4 criminal history points
as determined under the sentencing guidelines;

“(B) a prior 3-point offense, as determined
under the sentencing guidelines; and

“(C) a prior 2-point drug trafficking or
violent offense, as determined under the sen-
tencing guidelines;”;

(2) by adding at the end the following:
“(g) INADEQUACY OF CRIMINAL HISTORY.—

“(1) IN GENERAL.—If subsection (f) does not apply to a defendant because the defendant does not meet the requirements described in subsection (f)(1) (relating to criminal history), the court may, upon prior notice to the Government, waive subsection (f)(1) if the court specifies in writing the specific reasons why reliable information indicates that excluding the defendant pursuant to subsection (f)(1) substantially overrepresents the seriousness of the defendant’s criminal history or the likelihood that the defendant will commit other crimes.

“(2) PROHIBITION.—This subsection shall not apply to any defendant who has been convicted of a serious drug felony or a serious violent felony as defined in paragraphs (57) and (58), respectively, of section 102 of the Controlled Substances Act (21 U.S.C. 802).

“(h) DEFINITIONS.—As used in this section—

“(1) the term ‘drug trafficking offense’ means an offense that is punishable by imprisonment under any law of the United States, or of a State or foreign country, that prohibits or restricts the importation, manufacture, or distribution of controlled sub-
stances or the possession of controlled substances
with intent to distribute; and

“(2) the term ‘violent offense’ means a ‘crime
of violence’, as defined in section 16, that is punish-
able by imprisonment.”.

(b) APPLICABILITY.—The amendments made by this
section shall apply only to a conviction entered on or after
the date of enactment of this Act.

SEC. 103. LIMITATION ON APPLICATION OF THE 10-YEAR
MANDATORY MINIMUM.

(a) AMENDMENT.—Section 3553 of title 18, United
States Code, as amended by section 102, is amended by
adding at the end the following:

“(i) LIMITATION ON APPLICABILITY OF CERTAIN
STATUTORY MINIMUMS.—Notwithstanding any other pro-
vision of law, in the case of a conviction under section 401
or 406 of the Controlled Substances Act (21 U.S.C. 841
and 846) or section 1010 or 1013 of the Controlled Sub-
stances Import and Export Act (21 U.S.C. 960 and 963)
for which the statutory minimum term of imprisonment
is 10 years, the court may impose a sentence as if the
statutory minimum term of imprisonment was 5 years, if
the court finds at sentencing, after the Government has
been afforded the opportunity to make a recommendation,
that—
“(1) the defendant does not have a prior conviction for a serious drug felony or serious violent felony as defined in paragraphs (57) and (58), respectively, of section 102 of the Controlled Substances Act (21 U.S.C. 802) that was made final prior to the commission of the instant offense;

“(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense, and the offense did not result in death or serious bodily injury to any person;

“(3) the defendant did not play an enhanced role in the offense by acting as an organizer, leader, manager, or supervisor of other participants in the offense, as determined under the sentencing guidelines, or by exercising substantial authority or control over the criminal activity of a criminal organization, regardless of whether the defendant was a member of such organization;

“(4) the defendant did not act as an importer, exporter, high-level distributor or supplier, wholesaler, or manufacturer of the controlled substances involved in the offense or engage in a continuing
criminal enterprise, as defined in section 408 of the Controlled Substances Act (21 U.S.C. 848);

“(5) the defendant did not distribute a controlled substance to or with a person under 18 years of age; and

“(6) not later than the time of the sentencing hearing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

“(j) DEFINITIONS.—As used in subsection (i) of this section—

“(1) the term ‘importer, exporter, or high-level distributor or supplier’—

“(A) means a defendant who imported, exported, or otherwise distributed or supplied large quantities of a controlled substance to other drug distributors; and
“(B) does not include a defendant whose role was limited to transporting drugs or money at the direction of others;

“(2) the term ‘manufacturer’ means a defendant who grew, produced, or manufactured a controlled substance and was the principal owner of such controlled substance; and

“(3) the term ‘wholesaler’ means a defendant who sold non-retail quantities of a controlled substance to other dealers or distributors.”.

(b) APPLICABILITY.—The amendment made by this section shall apply only to a conviction entered on or after the date of enactment of this Act.

SEC. 104. CLARIFICATION OF SECTION 924(c) OF TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Section 924(c)(1)(C) of title 18, United States Code, is amended—

(1) in the matter preceding clause (i), by striking “second or subsequent conviction under this subsection” and inserting “violation of this subsection that occurs after a prior conviction under this subsection or under State law for a crime of violence that contains as an element of the offense the carrying, brandishing, or use of a firearm has become final”; and
(2) in clause (i), by striking “not less than 25 years” and inserting “not less than 15 years”.

(b) **Applicability to Pending and Past Cases.**—

(1) **Pending cases.**—This section, and the amendments made by this section, shall apply to any offense that was committed before the date of enactment of this Act, if a sentence for the offense has not been imposed as of such date of enactment.

(2) **Past cases.**—In the case of a defendant who, before the date of enactment of this Act, was convicted of an offense for which the penalty is amended by this section and was sentenced to a term of imprisonment for the offense, the sentencing court may, on motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, upon prior notice to the Government, reduce the term of imprisonment for the offense, after considering the factors set forth in section 3553(a) of title 18, United States Code, the nature and seriousness of the danger to any person or the community, and the post-sentencing conduct of the defendant, if such a reduction is consistent with this section and the amendments made by this section.
SEC. 105. AMENDMENT TO CERTAIN PENALTIES FOR CERTAIN FIREARM OFFENSES AND ARMED CAREER CRIMINAL PROVISION.

(a) Amendments.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(2), by striking “not more than 10 years” and inserting “not more than 15 years”; and

(2) in subsection (e)(1), by striking “not less than 15 years” and inserting “not less than 10 years”.

(b) Applicability to Pending and Past Cases.—

(1) Pending cases.—This section, and the amendments made by this section, shall apply to any offense that was committed before the date of enactment of this Act, if a sentence for the offense has not been imposed as of such date of enactment.

(2) Past cases.—In the case of a defendant who, before the date of enactment of this Act, was convicted of an offense for which the penalty is amended by this section and was sentenced to a term of imprisonment for the offense, the sentencing court may, on motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, upon prior notice to the Government, reduce the term of imprisonment for the offense, after consid-
er the factors set forth in section 3553(a) of title 18, United States Code, the nature and seriousness of the danger to any person or the community, and the post-sentencing conduct of the defendant, if such a reduction is consistent with this section and the amendments made by this section.

SEC. 106. APPLICATION OF FAIR SENTENCING ACT.

(a) Definition of Covered Offense.—In this section, the term "covered offense" means a violation of a Federal criminal statute, the statutory penalties for which were modified by section 2 or 3 of the Fair Sentencing Act of 2010 (Public Law 111–220; 124 Stat. 2372), that was committed before August 3, 2010.

(b) Defendants Previously Sentenced.—A court that imposed a sentence for a covered offense, may, on motion of the defendant, the Director of the Bureau of Prisons, the attorney for the Government, or the court, impose a reduced sentence as if sections 2 and 3 of the Fair Sentencing Act of 2010 (Public Law 111–220; 124 Stat. 2372) were in effect at the time the covered offense was committed.

(c) Limitations.—No court shall entertain a motion made under this section to reduce a sentence if the sentence was previously imposed or previously reduced in accordance with the amendments made by sections 2 and
3 of the Fair Sentencing Act of 2010 (Public Law 111–220; 124 Stat. 2372) or if a motion made under this section to reduce the sentence was previously denied. Nothing in this section shall be construed to require a court to reduce any sentence pursuant to this section.

SEC. 107. MANDATORY MINIMUM SENTENCES FOR DOMESTIC VIOLENCE OFFENSES.

Section 2261(b) of title 18, United States Code, is amended by striking paragraphs (1), (2), and (3) and inserting the following:

“(1) if death of the victim results—

“(A) in the case of a violation of this section, for any term of years not less than 10 or for life; and

“(B) in the case of a violation of section 2261A, for life or any term of years;

“(2) if permanent disfigurement or life threatening bodily injury to the victim results—

“(A) in the case of a violation of this section, for not more than 25 years; and

“(B) in the case of a violation of section 2261A, for not more than 20 years;

“(3) if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense—
“(A) in the case of a violation of this section, for not more than 15 years; and

“(B) in the case of a violation of section 2261A, for not more than 10 years;”.

SEC. 108. MINIMUM TERM OF IMPRISONMENT FOR CERTAIN ACTS RELATING TO THE PROVISION OF CONTROLLED GOODS OR SERVICES TO TERRORISTS OR PROLIFERATORS OF WEAPONS OF MASS DESTRUCTION.


(1) in subsection (c), by striking “A person” and inserting “Subject to subsection (d), a person”;

and

(2) by adding at the end the following:

“(d) MINIMUM TERM OF IMPRISONMENT FOR CERTAIN ACTS RELATING TO THE PROVISION OF CONTROLLED GOODS OR SERVICES TO TERRORISTS OR PROLIFERATORS OF WEAPONS OF MASS DESTRUCTION.—

“(1) IN GENERAL.—A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, solicits the commission of, or aids or abets in the commission of, an unlawful act described in paragraph (2) shall, upon conviction, be
imprisoned for a term of not less than 5 years. Notwithstanding any other provision of law, a court shall not place on probation any person sentenced under this subsection.

“(2) UNLAWFUL ACTS DESCRIBED.—An unlawful act described in this paragraph is an unlawful act described in subsection (a) that involves—

“(A) the provision of controlled goods or services to or for the use of—

“(i) a state sponsor of terrorism;

“(ii) an organization designated as a foreign terrorist organization under section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)); or

“(iii) a person on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury;

“(B) the provision of goods or services, without a license or other written approval of the United States Government, to any person in connection with a program or effort of a foreign country or foreign person to develop weapons of mass destruction; or
“(C) the provision of defense articles or defense services, without a license or other written approval of the Department of State, to, or for the use of, a country subject to an arms embargo by the United States.

“(3) DEFINITIONS.—In this subsection:

“(A) CONTROLLED GOODS OR SERVICES.—The term ‘controlled goods or services’ means any article, item, technical data, service, or technology listed or included in—

“(i) the United States Munitions List maintained pursuant to part 121 of title 22, Code of Federal Regulations;

“(ii) the Commerce Control List maintained pursuant to part 774 of title 15, Code of Federal Regulations; or

“(iii) any successor to the United States Munitions List or the Commerce Control List.

“(B) COUNTRY SUBJECT TO AN ARMS EMBARGO.—The term ‘country subject to an arms embargo’ means any foreign country listed in section 126.1 of title 22, Code of Federal Regulations (or any corresponding similar regulation or ruling), for which—
“(i) an embargo or prohibition exists on the export of defense articles or defense services; or

“(ii) the policy of the United States is to deny licenses and other approvals for the export of defense articles and defense services.

“(C) Defense article; defense service.—The terms ‘defense article’ and ‘defense service’ have the meanings given those terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

“(D) State sponsor of terrorism.—The term ‘state sponsor of terrorism’ means any foreign country, or political subdivision, agency, or instrumentality of a foreign country, if the Secretary of State has determined that the government of the country has repeatedly provided support for acts of international terrorism pursuant to—

“(i) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (as in effect pursuant to this Act);
“(ii) section 40(d) of the Arms Export
Control Act (22 U.S.C. 2780(d));
“(iii) section 620A(a) of the Foreign
Assistance Act of 1961 (22 U.S.C.
2371(a)); or
“(iv) any other provision of law.
“(E) WEAPON OF MASS DESTRUCTION.—
The term ‘weapon of mass destruction’ has the
meaning given that term in section 2332a of
title 18, United States Code.”.

SEC. 109. INVENTORY OF FEDERAL CRIMINAL OFFENSES.
(a) DEFINITIONS.—In this section—
(1) the term “criminal regulatory offense”
means a Federal regulation that is enforceable by a
criminal penalty; and
(2) the term “criminal statutory offense”
means a criminal offense under a Federal statute.
(b) REPORT ON CRIMINAL STATUTORY OFFENSES.—
Not later than 1 year after the date of enactment of this
Act, the Attorney General shall submit to the Committee
on the Judiciary of the Senate and the Committee on the
Judiciary of the House of Representatives a report, which
shall include—
(1) a list of all criminal statutory offenses, including a list of the elements for each criminal statutory offense; and

(2) for each criminal statutory offense listed under paragraph (1)—

(A) the potential criminal penalty for the criminal statutory offense;

(B) the number of prosecutions for the criminal statutory offense brought by the Department of Justice each year for the 15-year period preceding the date of enactment of this Act; and

(C) the mens rea requirement for the criminal statutory offense.

(c) REPORT ON CRIMINAL REGULATORY OFFENSES.—

(1) REPORTS.—Not later than 1 year after the date of enactment of this Act, the head of each Federal agency described in paragraph (2) shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report, which shall include—

(A) a list of all criminal regulatory offenses enforceable by the agency; and
(B) for each criminal regulatory offense listed under subparagraph (A)—

(i) the potential criminal penalty for a violation of the criminal regulatory offense;

(ii) the number of violations of the criminal regulatory offense referred to the Department of Justice for prosecution in each of the years during the 15-year period preceding the date of enactment of this Act; and

(iii) the mens rea requirement for the criminal regulatory offense.

(2) AGENCIES DESCRIBED.—The Federal agencies described in this paragraph are the Department of Agriculture, the Department of Commerce, the Department of Education, the Department of Energy, the Department of Health and Human Services, the Department of Homeland Security, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Department of the Treasury, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Equal Employment Opportunity Commission, the Export-Import Bank of the United
States, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Mine Safety and Health Review Commission, the Federal Trade Commission, the National Labor Relations Board, the National Transportation Safety Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Office of Compliance, the Postal Regulatory Commission, the Securities and Exchange Commission, the Securities Investor Protection Corporation, the Environmental Protection Agency, the Small Business Administration, the Federal Housing Finance Agency, and the Office of Government Ethics.

(d) Index.—Not later than 2 years after the date of enactment of this Act—

(1) the Attorney General shall establish a publicly accessible index of each criminal statutory offense listed in the report required under subsection (b) and make the index available and freely accessible on the website of the Department of Justice; and
(2) the head of each agency described in subsection (c)(2) shall establish a publically accessible index of each criminal regulatory offense listed in the report required under subsection (e)(1) and make the index available and freely accessible on the website of the agency.

(e) **Rule of Construction.**—Nothing in this section shall be construed to require or authorize appropriations.

**TITLE II—CORRECTIONS ACT**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Corrections Oversight, Recidivism Reduction, and Eliminating Costs for Taxpayers In Our National System Act of 2015” or the “CORRECTIONS Act”.

**SEC. 202. RECIDIVISM REDUCTION PROGRAMMING AND PRODUCTIVE ACTIVITIES.**

(a) **In General.**—Not later than 1 year after the date of enactment of this Act, the Attorney General shall—

(1) conduct a review of recidivism reduction programming and productive activities, including prison jobs, offered in correctional institutions, including programming and activities offered in State
correctional institutions, which shall include a review of research on the effectiveness of such programs;

(2) conduct a survey to identify products, including products purchased by Federal agencies, that are currently manufactured overseas and could be manufactured by prisoners participating in a prison work program without reducing job opportunities for other workers in the United States; and

(3) submit to the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives a strategic plan for the expansion of recidivism reduction programming and productive activities, including prison jobs, in Bureau of Prisons facilities required by section 3621(h)(1) of title 18, United States Code, as added by subsection (b).

(b) AMENDMENT.—Section 3621 of title 18, United States Code, is amended by adding at the end the following:

“(h) RECIDIVISM REDUCTION PROGRAMMING AND PRODUCTIVE ACTIVITIES.—

“(1) IN GENERAL.—The Director of the Bureau of Prisons, shall, subject to the availability of appropriations, make available to all eligible prisoners ap-
appropriate recidivism reduction programming or productive activities, including prison jobs, in accordance with paragraph (2).

“(2) EXPANSION PERIOD.—

“(A) IN GENERAL.—In carrying out this subsection, the Director of the Bureau of Prisons shall have 6 years beginning on the date of enactment of this subsection to ensure appropriate recidivism reduction programming and productive activities, including prison jobs, are available for all eligible prisoners.

“(B) CERTIFICATION.—

“(i) IN GENERAL.—The National Institute of Corrections shall evaluate all recidivism reduction programming or productive activities that are made available to eligible prisoners and determine whether such programming or activities may be certified as evidence-based and effective at reducing or mitigating offender risk and recidivism.

“(ii) CONSIDERATIONS.—In determining whether or not to issue a certification under clause (i), the National Institute of Corrections shall consult with inter-
nal or external program evaluation experts, including the Office of Management and Budget and the Comptroller General of the United States to identify appropriate evaluation methodologies for each type of program offered, and may use analyses of similar programs conducted in other correctional settings.

“(3) Recidivism reduction partnerships.— Not later than 18 months after the date of enactment of this subsection, the Attorney General shall issue regulations requiring the official in charge of each correctional facility to ensure, subject to the availability of appropriations, that appropriate recidivism reduction programming and productive activities, including prison jobs, are available for all eligible prisoners within the time period specified in paragraph (2), by entering into partnerships with the following:

“(A) Nonprofit and other private organizations, including faith-based and community-based organizations, that provide recidivism reduction programming, on a paid or volunteer basis.
“(B) Educational institutions that will deliver academic classes in Bureau of Prisons facilities, on a paid or volunteer basis.

“(C) Private entities that will, on a volunteer basis—

“(i) deliver occupational and vocational training and certifications in Bureau of Prisons facilities;

“(ii) provide equipment to facilitate occupational and vocational training or employment opportunities for prisoners;

“(iii) employ prisoners; or

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

“(D) Industry-sponsored organizations that deliver workforce development and training that lead to recognized certification and employment.

“(4) ASSIGNMENTS.—In assigning prisoners to recidivism reduction programming and productive activities, the Director of the Bureau of Prisons shall use the Post-Sentencing Risk and Needs Assessment System described in section 3621A and shall ensure that—
“(A) to the extent practicable, prisoners are separated from prisoners of other risk classifications in accordance with best practices for effective recidivism reduction;

“(B) a prisoner who has been classified as low risk and without need for recidivism reduction programming shall participate in and successfully complete productive activities, including prison jobs, in order to maintain a low-risk classification;

“(C) a prisoner who has successfully completed all recidivism reduction programming to which the prisoner was assigned shall participate in productive activities, including a prison job; and

“(D) to the extent practicable, each eligible prisoner shall participate in and successfully complete recidivism reduction programming or productive activities, including prison jobs, throughout the entire term of incarceration of the prisoner.

“(5) MENTORING SERVICES.—Any person who provided mentoring services to a prisoner while the prisoner was in a penal or correctional facility of the Bureau of Prisons shall be permitted to continue
such services after the prisoner has been transferred into prerelease custody, unless the person in charge of the penal or correctional facility of the Bureau of Prisons demonstrates, in a written document submitted to the person, that such services would be a significant security risk to the prisoner, persons who provide such services, or any other person.

“(6) Recidivism reduction program incentives and rewards.—Prisoners who have successfully completed recidivism reduction programs and productive activities shall be eligible for the following:

“(A) Time credits.—

“(i) In general.—Subject to clauses (ii) and (iii), a prisoner who has successfully completed a recidivism reduction program or productive activity that has been certified under paragraph (2)(B) shall receive time credits of 5 days for each period of 30 days of successful completion of such program or activity. A prisoner who is classified as low risk shall receive additional time credits of 5 days for each period of 30 days of successful completion of such program or activity.
“(ii) Availability.—A prisoner may not receive time credits under this subparagraph for successfully completing a recidivism reduction program or productive activity—

“(I) before the date of enactment of this subsection; or

“(II) during official detention before the date on which the prisoner’s sentence commences under section 3585(a).

“(iii) Exclusions.—No credit shall be awarded under this subparagraph to a prisoner serving a sentence for a second or subsequent conviction for a Federal offense imposed after the date on which the prisoner’s first such conviction became final, which shall not include any offense under section 1152 or section 1153 for which the prisoner was sentenced to less than 13 months. No credit shall be awarded under this subparagraph to a prisoner with 13 or more criminal history points, as determined under the sentencing guidelines, at the time of sentencing, unless the court de-
termines in writing at sentencing that the defendant’s criminal history category substantially overrepresents the seriousness of the defendant’s criminal history or the likelihood that the defendant will commit other crimes. No credit shall be awarded under this subparagraph to any prisoner serving a sentence of imprisonment for conviction for any of the following offenses:

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

“(II) A Federal crime of violence, as defined under section 16.

“(III) A Federal sex offense, as described in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911).

“(IV) Engaging in a continuing criminal enterprise, as defined in section 408 of the Controlled Substances Act (21 U.S.C. 848).

“(V) A Federal fraud offense for which the prisoner received a sentence
of imprisonment of more than 15 years.

“(VI) A Federal crime involving child exploitation, as defined in section 2 of the PROTECT Our Children Act of 2008 (42 U.S.C. 17601).

“(VII) A violation of—

“(aa) chapter 11 (relating to bribery, graft, and conflicts of interest);

“(bb) chapter 29 (relating to elections and political activities);

“(cc) section 1028A, 1031, or 1040 (relating to fraud);

“(dd) chapter 63 involving a scheme or artifice to deprive another of the intangible right of honest services;

“(ee) chapter 73 (relating to obstruction of justice);

“(ff) chapter 95 or 96 (relating to racketeering and racketeer influenced and corrupt organizations); or
“(gg) chapter 110 (relating to sexual exploitation and other abuse of children).

“(iv) IDENTIFICATION OF COVERED OFFENSES.—Not later than 1 year after the date of enactment of this subsection, the United States Sentencing Commission shall prepare and submit to the Director of the Bureau of Prisons a list of all Federal offenses described in subclauses (I) through (VII) of clause (iii), and shall update such list on an annual basis.

“(B) OTHER INCENTIVES.—The Bureau of Prisons shall develop policies to provide appropriate incentives for successful completion of recidivism reduction programming and productive activities, other than time credit pursuant to subparagraph (A), including incentives for prisoners who are precluded from earning credit under subparagraph (A)(iii). Such incentives may include additional telephone or visitation privileges for use with family, close friends, mentors, and religious leaders.

“(C) PENALTIES.—The Bureau of Prisons may reduce rewards a prisoner has previously
earned under subparagraph (A) for prisoners who violate the rules of the penal or correctional facility in which the prisoner is imprisoned, a recidivism reduction program, or a productive activity.

“(D) Relation to Other Incentive Programs.—The incentives described in this paragraph shall be in addition to any other rewards or incentives for which a prisoner may be eligible, except that a prisoner shall not be eligible for the time credits described in subparagraph (A) if the prisoner has accrued time credits under another provision of law based solely upon participation in, or successful completion of, such program.

“(7) Successful Completion.—For purposes of this subsection, a prisoner—

“(A) shall be considered to have successfully completed a recidivism reduction program or productive activity, if the Bureau of Prisons determines that the prisoner—

“(i) regularly attended and participated in the recidivism reduction program or productive activity;
“(ii) regularly completed assignments or tasks in a manner that allowed the prisoner to realize the criminogenic benefits of the recidivism reduction program or productive activity;

“(iii) did not regularly engage in disruptive behavior that seriously undermined the administration of the recidivism reduction program or productive activity; and

“(iv) satisfied the requirements of clauses (i) through (iii) for a time period that is not less than 30 days and allowed the prisoner to realize the criminogenic benefits of the recidivism reduction program or productive activity; and

“(B) for purposes of paragraph (6)(A), may be given credit for successful completion of a recidivism reduction program or productive activity for the time period during which the prisoner participated in such program or activity if the prisoner satisfied the requirements of subparagraph (A) during such time period, notwithstanding that the prisoner continues to participate in such program or activity.

“(8) DEFINITIONS.—In this subsection:
“(A) ELIGIBLE PRISONER.—For purposes of this subsection, the term ‘eligible prisoner’—

“(i) means a prisoner serving a sentence of incarceration for conviction of a Federal offense; and

“(ii) does not include any prisoner who the Bureau of Prisons determines—

“(I) is medically unable to successfully complete recidivism reduction programming or productive activities;

“(II) would present a security risk if permitted to participate in recidivism reduction programming; or

“(III) is serving a sentence of incarceration of less than 1 month.

“(B) PRODUCTIVE ACTIVITY.—The term ‘productive activity’—

“(i) means a group or individual activity, including holding a job as part of a prison work program, that is designed to allow prisoners classified as having a lower risk of recidivism to maintain such classification, when offered to such prisoners; and
“(ii) may include the delivery of the activities described in subparagraph (C)(i)(II) to other prisoners.

“(C) Recidivism Reduction Program.— The term ‘recidivism reduction program’ means—

“(i) a group or individual activity that—

“(I) has been certified to reduce recidivism or promote successful re-entry; and

“(II) may include—

“(aa) classes on social learning and life skills;

“(bb) classes on morals or ethics;

“(cc) academic classes;

“(dd) cognitive behavioral treatment;

“(ee) mentoring;

“(ff) occupational and vocational training;

“(gg) faith-based classes or services;
“(hh) domestic violence education and deterrence programming;

“(ii) victim-impact classes or other restorative justice programs;

“(jj) industry-sponsored workforce development, education, or training; and

“(kk) a prison job; and

“(ii) shall include—

“(I) a productive activity; and

“(II) recovery programming.

“(D) RECOVERY PROGRAMMING.—The term ‘recovery programming’ means a course of instruction or activities, other than a course described in subsection (e), that has been demonstrated to reduce drug or alcohol abuse or dependence among participants, or to promote recovery among individuals who have previously abused alcohol or drugs, to include appropriate medication-assisted treatment.”.

(e) No Consideration of Earned Time Credit Eligibility During Sentencing.—
(1) IN GENERAL.—Section 3553 of title 18, United States Code, as amended by sections 102 and 103 of this Act, is amended—

(A) by redesignating subsections (b) through (j) as subsections (c) through (k), respectively;

(B) in subsection (e)(3), as so redesignated, by striking “subsection (c)” and inserting “subsection (d)”;

(C) by inserting after subsection (a) the following:

“(b) In imposing a sentence, the court shall not consider the defendant’s eligibility or potential eligibility for credit under section 3621(e), 3621(h), or 3624(b) or any similar provision of law.”.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 3742 of title 18, United States Code, is amended—

(A) in subsection (e)(3)—

(i) in subparagraph (A), by striking “section 3553(c)” and inserting “section 3553(d)”;

(ii) in subparagraph (B)(ii), by striking “section 3553(b)” and inserting “section 3553(c)”;

and
(iii) in subparagraph (C), by striking “section 3553(c)” and inserting “section 3553(d)”; 

(B) in subsection (g)(2), by striking “section 3553(c)” and inserting “section 3553(d)”; 

and

(C) in subsection (j)(1)(B), by striking “section 3553(b)” and inserting “section 3553(c)”.

SEC. 203. POST-SENTENCING RISK AND NEEDS ASSESSMENT SYSTEM.

(a) In General.—Subchapter C of chapter 229 of title 18, United States Code, is amended by inserting after section 3621 the following:

“§3621A. Post-sentencing risk and needs assessment system

“(a) In General.—Not later than 30 months after the date of the enactment of this section, the Attorney General shall develop for use by the Bureau of Prisons an offender risk and needs assessment system, to be known as the ‘Post-Sentencing Risk and Needs Assessment System’ or the ‘Assessment System’, which shall—

“(1) assess and determine the recidivism risk level of all prisoners and classify each prisoner as having a low, moderate, or high risk of recidivism;
“(2) to the extent practicable, assess and determine the risk of violence of all prisoners;

“(3) ensure that, to the extent practicable, low-risk prisoners are grouped together in housing and assignment decisions;

“(4) assign each prisoner to appropriate recidivism reduction programs or productive activities based on the prisoner’s risk level and the specific criminogenic needs of the prisoner, and in accordance with section 3621(h)(4);

“(5) reassess and update the recidivism risk level and programmatic needs of each prisoner pursuant to the schedule set forth in subsection (c)(2), and assess changes in the prisoner’s recidivism risk within a particular risk level; and

“(6) provide information on best practices concerning the tailoring of recidivism reduction programs to the specific criminogenic needs of each prisoner so as to effectively lower the prisoner’s risk of recidivating.

“(b) DEVELOPMENT OF SYSTEM.—

“(1) IN GENERAL.—In designing the Assessment System, the Attorney General shall—
“(A) use available research and best practices in the field and consult with academic and other criminal justice experts as appropriate;

“(B) ensure that the Assessment System measures indicators of progress and improvement, and of regression, including newly acquired skills, attitude, and behavior changes over time, through meaningful consideration of dynamic risk factors, such that—

“(i) all prisoners at each risk level other than low risk have a meaningful opportunity to progress to a lower risk classification during the period of the incarceration of the prisoner through changes in dynamic risk factors; and

“(ii) all prisoners on prerelease custody, other than prisoners classified as low risk, have a meaningful opportunity to progress to a lower risk classification during such custody through changes in dynamic risk factors;

“(C) ensure that the Assessment System is adjusted on a regular basis, but not less frequently than every 3 years, to take account of
the best statistical evidence of effectiveness in
reducing recidivism rates; and

“(D) ensure that the Assessment System
does not result in unwarranted disparities, in-
cluding by—

“(i) regularly evaluating rates of re-
cidivism among similarly classified pris-
oners to identify any unwarranted dispari-
ties in such rates, including disparities
among similarly classified prisoners of dif-
ferent racial groups; and

“(ii) adjusting the Assessment System
to reduce such disparities to the greatest
extent possible.

“(2) RISK AND NEEDS ASSESSMENT TOOLS.—
In carrying out this subsection, the Attorney Gen-
eral shall—

“(A) develop a suitable intake assessment
tool to perform the initial assessments and de-
terminations described in subsection (a)(1), and
to make the assignments described in sub-
section (a)(3);

“(B) develop a suitable reassessment tool
to perform the reassessments and updates de-
scribed in subsection (a)(4); and
“(C) develop a suitable tool to assess the recidivism risk level of prisoners in prerelease custody.

“(3) USE OF EXISTING RISK AND NEEDS ASSESSMENT TOOLS PERMITTED.—In carrying out this subsection, the Attorney General may use existing risk and needs assessment tools, as appropriate, for the assessment tools required under paragraph (2).

“(4) USE OF PRESENTENCE REPORT.—In carrying out this subsection, the Attorney General shall coordinate with the United States Probation and Pretrial Services to ensure that the findings of the Presentence Report of each offender are available and considered in the Assessment System.

“(5) VALIDATION.—In carrying out this subsection, the Attorney General shall statistically validate the risk and needs assessment tools on the Federal prison population, or ensure that the tools have been so validated. To the extent such validation cannot be completed with the time period specified in subsection (a), the Attorney General shall ensure that such validation is completed as soon as is practicable.

“(6) RELATIONSHIP WITH EXISTING CLASSIFICATION SYSTEMS.—The Bureau of Prisons may
incorporate its existing Inmate Classification System into the Assessment System if the Assessment System assesses the risk level and criminogenic needs of each prisoner and determines the appropriate security level institution for each prisoner. Before the development of the Assessment System, the Bureau of Prisons may use the existing Inmate Classification System, or a pre-existing risk and needs assessment tool that can be used to classify prisoners consistent with subsection (a)(1), or can be reasonably adapted for such purpose, for purposes of this section, section 3621(h), and section 3624(c).

“(c) RISK ASSESSMENT.—

“(1) INITIAL ASSESSMENTS.—Not later than 30 months after the date on which the Attorney General develops the Assessment System, the Bureau of Prisons shall determine the risk level of each prisoner using the Assessment System.

“(2) REASSESSMENTS AND UPDATES.—The Bureau of Prisons shall update the assessment of each prisoner required under paragraph (1)—

“(A) not less frequently than once each year for any prisoner whose anticipated release date is within 3 years;
“(B) not less frequently than once every 2 years for any prisoner whose anticipated release date is within 10 years; and

“(C) not less frequently than once every 3 years for any other prisoner.

“(d) ASSIGNMENT OF RECIDIVISM REDUCTION PROGRAMS OR PRODUCTIVE ACTIVITIES.—The Assessment System shall provide guidance on the kind and amount of recidivism reduction programming or productive activities appropriate for each prisoner.

“(e) BUREAU OF PRISONS TRAINING.—The Attorney General shall develop training protocols and programs for Bureau of Prisons officials and employees responsible for administering the Assessment System. Such training protocols shall include a requirement that personnel of the Bureau of Prisons demonstrate competence in using the methodology and procedure developed under this section on a regular basis.

“(f) INFORMATION FROM PRESENTENCE REPORT.—The Attorney General shall ensure that the Bureau of Prisons uses relevant information from the Presentence Report of each offender when conducting an assessment under this section.

“(g) QUALITY ASSURANCE.—In order to ensure that the Bureau of Prisons is using the Assessment System in
an appropriate and consistent manner, the Attorney General shall monitor and assess the use of the Assessment System and shall conduct periodic audits of the use of the Assessment System at facilities of the Bureau of Prisons.

“(h) DETERMINATIONS AND CLASSIFICATIONS UNREVIEWABLE.—Subject to any constitutional limitations, there shall be no right of review, right of appeal, cognizable property interest, or cause of action, either administrative or judicial, arising from any determination or classification made by any Federal agency or employee while implementing or administering the Assessment System, or any rules or regulations promulgated under this section.

“(i) DEFINITIONS.—In this section:

“(1) DYNAMIC RISK FACTOR.—The term ‘dynamic risk factor’ means a characteristic or attribute that has been shown to be relevant to assessing risk of recidivism and that can be modified based on a prisoner’s actions, behaviors, or attitudes, including through completion of appropriate programming or other means, in a prison setting.

“(2) RECIDIVISM RISK.—The term ‘recidivism risk’ means the likelihood that a prisoner will commit additional crimes for which the prisoner could be
prosecuted in a Federal, State, or local court in the United States.

“(3) Recidivism reduction program; productive activity; recovery programming.—The terms ‘recidivism reduction program’, ‘productive activity’, and ‘recovery programming’ shall have the meaning given such terms in section 3621(h)(8).”.

(b) Technical and Conforming Amendment.—The table of sections for subchapter C of chapter 229 of title 18, United States Code, is amended by inserting after the item relating to section 3621 the following:

“3621A. Post-sentencing risk and needs assessment system.”.

SEC. 204. PRERELEASE CUSTODY.

(a) In General.—Section 3624(c) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking the period at the end of the second sentence and inserting “or home confinement, subject to the limitation that no prisoner may serve more than 10 percent of the prisoner’s imposed sentence in home confinement pursuant to this paragraph.”;

(2) by striking paragraphs (2) and (3) and inserting the following:

“(2) Credit for recidivism reduction.—In addition to any time spent in prerelease custody pursuant to paragraph (1), a prisoner shall spend an
additional portion of the final months of the prisoner’s sentence, equivalent to the amount of time credit the prisoner has earned pursuant to section 3621(h)(6)(A), in prerelease custody, if—

“(A) the prisoner’s most recent risk and needs assessment, conducted within 1 year of the date on which the prisoner would first be eligible for transfer to prerelease custody pursuant to paragraph (1) and this paragraph, reflects that the prisoner is classified as low or moderate risk; and

“(B) for a prisoner classified as moderate risk, the prisoner’s most recent risk and needs assessment reflects that the prisoner’s risk of recidivism has declined during the period of the prisoner’s incarceration.

“(3) TYPES OF PRERELEASE CUSTODY.—A prisoner eligible to serve a portion of the prisoner’s sentence in prerelease custody pursuant to paragraph (2) may serve such portion in a residential re-entry center, on home confinement, or, subject to paragraph (5), on community supervision.”;

(3) by redesignating paragraphs (4) through (6) as paragraphs (9) through (11), respectively;
(4) by inserting the following after paragraph (3):

“(4) HOME CONFINEMENT.—

“(A) IN GENERAL.—Upon placement in home confinement pursuant to paragraph (2), a prisoner shall—

“(i) be subject to 24-hour electronic monitoring that enables the prompt identification of any violation of clause (ii);

“(ii) remain in the prisoner’s residence, with the exception of the following activities, subject to approval by the Director of the Bureau of Prisons—

“(I) participation in a job, job-seeking activities, or job-related activities, including an apprenticeship;

“(II) participation in recidivism reduction programming or productive activities assigned by the Post-Sentencing Risk and Needs Assessment System, or similar activities approved in advance by the Director of the Bureau of Prisons;

“(III) participation in community service;
“(IV) crime victim restoration activities;

“(V) medical treatment; or

“(VI) religious activities; and

“(iii) comply with such other conditions as the Director of the Bureau of Prisons deems appropriate.

“(B) ALTERNATIVE MEANS OF MONITORING.—If compliance with subparagraph (A)(i) is infeasible due to technical limitations or religious considerations, the Director of the Bureau of Prisons may employ alternative means of monitoring that are determined to be as effective or more effective than electronic monitoring.

“(C) MODIFICATIONS.—The Director of the Bureau of Prisons may modify the conditions of the prisoner’s home confinement for compelling reasons, if the prisoner’s record demonstrates exemplary compliance with such conditions.

“(5) COMMUNITY SUPERVISION.—

“(A) TIME CREDIT LESS THAN 36 MONTHS.—Any prisoner described in subparagraph (D) who has earned time credit of less
than 36 months pursuant to section 3621(h)(6)(A) shall be eligible to serve no more than one-half of the amount of such credit on community supervision, if the prisoner satisfies the conditions set forth in subparagraph (C).

“(B) TIME CREDIT OF 36 MONTHS OR MORE.—Any prisoner described in subparagraph (D) who has earned time credit of 36 months or more pursuant to section 3621(h)(6)(A) shall be eligible to serve the amount of such credit exceeding 18 months on community supervision, if the prisoner satisfies the conditions set forth in subparagraph (C).

“(C) CONDITIONS OF COMMUNITY SUPERVISION.—A prisoner placed on community supervision shall be subject to such conditions as the Director of the Bureau of Prisons deems appropriate. A prisoner on community supervision may remain on community supervision until the conclusion of the prisoner’s sentence of incarceration if the prisoner—

“(i) complies with all conditions of prerelease custody;

“(ii) remains current on any financial obligations imposed as part of the pris-
oner’s sentence, including payments of court-ordered restitution arising from the offense of conviction; and

“(iii) refrains from committing any State, local, or Federal offense.

“(D) COVERED PRISONERS.—A prisoner described in this subparagraph is a prisoner who—

“(i) is classified as low risk by the Post-Sentencing Risk and Needs Assessment System in the assessment conducted for purposes of paragraph (2); or

“(ii) is subsequently classified as low risk by the Post-Sentencing Risk and Needs Assessment System.

“(6) VIOLATIONS.—If a prisoner violates a condition of the prisoner’s prerelease custody, the Director of the Bureau of Prisons may revoke the prisoner’s prerelease custody and require the prisoner to serve the remainder of the prisoner’s term of incarceration, or any portion thereof, in prison, or impose additional conditions on the prisoner’s prerelease custody as the Director of the Bureau of Prisons deems appropriate. If the violation is nontechnical in
nature, the Director of the Bureau of Prisons shall
revoke the prisoner’s prerelease custody.

“(7) CREDIT FOR PRERELEASE CUSTODY.—
Upon completion of a prisoner’s sentence, any term
of supervised release imposed on the prisoner shall
be reduced by the amount of time the prisoner
served in prerelease custody pursuant to paragraph
(2).

“(8) AGREEMENTS WITH UNITED STATES PRO-
BATION AND PRETRIAL SERVICES.—The Director of
the Bureau of Prisons shall, to the greatest extent
practicable, enter into agreements with the United
States Probation and Pretrial Services to supervise
prisoners placed in home confinement or community
supervision under this subsection. Such agreements
shall authorize United States Probation and Pretrial
Services to exercise the authority granted to the Di-
rector of the Bureau of Prisons pursuant to para-
graphs (4), (5), and (12). Such agreements shall
take into account the resource requirements of
United States Probation and Pretrial Services as a
result of the transfer of Bureau of Prisons inmates
to prerelease custody and shall provide for the trans-
fer of monetary sums necessary to comply with such
requirements. United States Probation and Pretrial
Services shall, to the greatest extent practicable, offer assistance to any prisoner not under its supervision during prerelease custody under this subsection.”; and

(5) by inserting at the end the following:

“(12) **Determination of appropriate conditions for prerelease custody.**—In determining appropriate conditions for prerelease custody pursuant to this subsection, and in accordance with paragraph (5), the Director of the Bureau of Prisons shall, to the extent practicable, subject prisoners who demonstrate continued compliance with the requirements of such prerelease custody to increasingly less restrictive conditions, so as to most effectively prepare such prisoners for reentry. No prisoner shall be transferred to community supervision unless the length of the prisoner’s eligibility for community supervision pursuant to paragraph (5) is equivalent to or greater than the length of the prisoner’s remaining period of prerelease custody.

“(13) **Aliens subject to deportation.**—If the prisoner is an alien whose deportation was ordered as a condition of supervised release or who is subject to a detainer filed by Immigration and Customs Enforcement for the purposes of determining
the alien's deportability, the Director of the Bureau
of Prisons shall, upon the prisoner's transfer to
prerelease custody pursuant to paragraphs (1) and
(2), deliver the prisoner to United States Immigra-
tion and Customs Enforcement for the purpose of
conducting proceedings relating to the alien's depor-
tation.

“(14) Notice of transfer to prerelease
custody.—

“(A) In general.—The Director of the
Bureau of Prisons may not transfer a prisoner
to prerelease custody pursuant to paragraph (2)
if the prisoner has been sentenced to a term of
incarceration of more than 3 years, unless the
Director of the Bureau of Prisons provides
prior notice to the sentencing court and the
United States Attorney's Office for the district
in which the prisoner was sentenced.

“(B) Time requirement.—The notice re-
quired under subparagraph (A) shall be pro-
vided not later than 6 months before the date
on which the prisoner is to be transferred.

“(C) Contents of notice.—The notice
required under subparagraph (A) shall include
the following information:
“(i) The amount of credit earned pursuant to paragraph (2).

“(ii) The anticipated date of the prisoner’s transfer.

“(iii) The nature of the prisoner’s planned prerelease custody.

“(iv) The prisoner’s behavioral record.

“(v) The most recent risk assessment of the prisoner.

“(D) HEARING.—

“(i) IN GENERAL.—On motion of the Government, the sentencing court may conduct a hearing on the prisoner’s transfer to prerelease custody.

“(ii) PRISONER’S PRESENCE.—The prisoner shall have the right to be present at a hearing described in clause (i), unless the prisoner waives such right. The requirement under this clause may be satisfied by the defendant appearing by video teleconference.

“(iii) MOTION.—A motion filed by the Government seeking a hearing—

“(I) shall set forth the basis for the Government’s request that the
prisoner’s transfer be denied or modified pursuant to subparagraph (E); and

“(II) shall not require the Court to conduct a hearing described in clause (i).

“(E) Determination of the Court.—The court may deny the transfer of the prisoner to prerelease custody or modify the terms of such transfer, if, after conducting a hearing pursuant to subparagraph (D), the court finds in writing, by a preponderance of the evidence, that the transfer of the prisoner is inconsistent with the factors specified in paragraphs (2), (6), and (7) of section 3553(a).”.

(b) Effective Date.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 205. REPORTS.

(a) Annual Reports.—

(1) Reports.—Not later than 1 year after the date of enactment of this Act, and every year thereafter, the Attorney General, in coordination with the Comptroller General of the United States, shall sub-
mit to the appropriate committees of Congress a report that contains the following:

(A) A summary of the activities and accomplishments of the Attorney General in carrying out this title and the amendments made by this title.

(B) An assessment of the status and use of the Post-Sentencing Risk and Needs Assessment System by the Bureau of Prisons, including the number of prisoners classified at each risk level under the Post-Sentencing Risk and Needs Assessment System at each facility of the Bureau of Prisons.

(C) A summary and assessment of the types and effectiveness of the recidivism reduction programs and productive activities in facilities operated by the Bureau of Prisons, including—

(i) evidence about which programs and activities have been shown to reduce recidivism;

(ii) the capacity of each program and activity at each facility, including the number of prisoners along with the risk level of
each prisoner enrolled in each program and activity; and

(iii) identification of any problems or shortages in capacity of such programs and activities, and how these should be remedied.

(D) An assessment of budgetary savings resulting from this title and the amendments made by this title, to include—

(i) a summary of the amount of savings resulting from the transfer of prisoners into prerelease custody under this title and the amendments made by this title, including savings resulting from the avoidance or deferral of future construction, acquisition, or operations costs;

(ii) a summary of the amount of savings resulting from any decrease in recidivism that may be attributed to the implementation of the Post-Sentencing Risk and Needs Assessment System or the increase in recidivism reduction programs and productive activities required by this title and the amendments made by this title; and
(iii) a strategy to reinvest such sav-
ings into other Federal, State, and local
law enforcement activities and expansions
of recidivism reduction programs and pro-
ductive activities in the Bureau of Prisons.

(2) REINVESTMENT OF SAVINGS TO FUND PUB-
LIC SAFETY PROGRAMMING.—

(A) IN GENERAL.—Beginning in the first
fiscal year after the first report is submitted
under paragraph (1), and every fiscal year
thereafter, the Attorney General shall—

(i) determine the covered amount for
the previous fiscal year in accordance with
subparagraph (B); and

(ii) use an amount of funds appro-
priated to the Department of Justice that
is not less than 90 percent of the covered
amount for the purposes described in sub-
paragraph (C).

(B) COVERED AMOUNT.—For purposes of
this paragraph, the term “covered amount”
means, using the most recent report submitted
under paragraph (1), the amount equal to the
sum of the amount described in paragraph
(1)(D)(i) for the fiscal year and the amount de-
scribed in paragraph (1)(D)(ii) for the fiscal year.

(C) USE OF FUNDS.—The funds described in subparagraph (A)(ii) shall be used, consistent with paragraph (1)(D)(iii), to—

(i) ensure that, not later than 6 years after the date of enactment of this Act, recidivism reduction programs or productive activities are available to all eligible prisoners;

(ii) ensure compliance with the resource needs of United States Probation and Pretrial Services resulting from an agreement under section 3624(c)(8) of title 18, United States Code, as added by this title; and

(iii) supplement funding for programs that increase public safety by providing resources to State and local law enforcement officials, including for the adoption of innovative technologies and information sharing capabilities.

(b) PRISON WORK PROGRAMS REPORT.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall submit to the appropriate com-
mittees of Congress a report on the status of prison work programs at facilities operated by the Bureau of Prisons, including—

(1) a strategy to expand the availability of such programs without reducing job opportunities for workers in the United States who are not in the custody of the Bureau of Prisons;

(2) an assessment of the feasibility of expanding such programs, consistent with the strategy required under paragraph (1), so that, not later than 5 years after the date of enactment of this Act, not less than 75 percent of eligible low-risk offenders have the opportunity to participate in a prison work program for not less than 20 hours per week; and

(3) a detailed discussion of legal authorities that would be useful or necessary to achieve the goals described in paragraphs (1) and (2).

(c) REPORTING ON RECIDIVISM RATES.—

(1) IN GENERAL.—Beginning 1 year after the date of enactment of this Act, and every year thereafter, the Attorney General, in consultation with the Administrative Office of the United States Courts, shall report to the appropriate committees of Congress on rates of recidivism among individuals who
have been released from Federal prison and who are
under judicial supervision.

(2) CONTENTS.—The report required under
paragraph (1) shall contain information on rates of
recidivism among former Federal prisoners, includ-
ing information on rates of recidivism among former
Federal prisoners based on the following criteria:

(A) Primary offense charged.

(B) Length of sentence imposed and
served.

(C) Bureau of Prisons facility or facilities
in which the prisoner’s sentence was served.

(D) Recidivism reduction programming
that the prisoner successfully completed, if any.

(E) The prisoner’s assessed risk of recidi-


(3) ASSISTANCE.—The Administrative Office of
the United States Courts shall provide to the Attor-
ney General any information in its possession that is
necessary for the completion of the report required
under paragraph (1).

(d) REPORTING ON EXCLUDED PRISONERS.—Not
later than 8 years after the date of enactment of this Act,
the Attorney General shall submit to the appropriate com-
mittees of Congress a report on the effectiveness of recidi-
visim reduction programs and productive activities offered
to prisoners described in section 3621(h)(6)(A)(iii) of title
18, United States Code, as added by this title, as well as
those ineligible for credit toward prerelease custody under
section 3624(c)(2) of title 18, United States Code, as
added by this title, which shall review the effectiveness of
different categories of incentives in reducing recidivism.

(e) DEFINITION.—The term “appropriate committees
of Congress” means—
(1) the Committee on the Judiciary and the
Subcommittee on Commerce, Justice, Science, and
Related Agencies of the Committee on Appropriations of the Senate; and
(2) the Committee on the Judiciary and the
Subcommittee on Commerce, Justice, Science, and
Related Agencies of the Committee on Appropriations of the House of Representatives.

SEC. 206. ADDITIONAL TOOLS TO PROMOTE RECOVERY
AND PREVENT DRUG AND ALCOHOL ABUSE
AND DEPENDENCE.

(a) REENTRY AND RECOVERY PLANNING.—
(1) PRESENTENCE REPORTS.—Section 3552 of
title 18, United States Code, is amended—
(A) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(B) by inserting after subsection (a) the following:

“(b) **REENTRY AND RECOVERY PLANNING.**—

“(1) **IN GENERAL.**—In addition to the information required by rule 32(d) of the Federal Rules of Criminal Procedure, the report submitted pursuant to subsection (a) shall contain the following information, unless such information is required to be excluded pursuant to rule 32(d)(3) of the Federal Rules of Criminal Procedure or except as provided in paragraph (2):

“(A) Information about the defendant’s history of substance abuse and addiction, if applicable.

“(B) Information about the defendant’s service in the Armed Forces of the United States and veteran status, if applicable.

“(C) A detailed plan, which shall include the identification of programming provided by the Bureau of Prisons that is appropriate for the defendant’s needs, that the probation officer determines will—
“(i) reduce the likelihood the defendant will abuse drugs or alcohol if the defendant has a history of substance abuse;

“(ii) reduce the defendant’s likelihood of recidivism by addressing the defendant’s specific recidivism risk factors; and

“(iii) assist the defendant preparing for reentry into the community.

“(2) EXCEPTIONS.—The information described in paragraph (1)(C)(iii) shall not be required to be included under paragraph (1), in the discretion of the Probation Officer, if the applicable sentencing range under the sentencing guidelines, as determined by the probation officer, includes a sentence of life imprisonment or a sentence of probation.”;

(C) in subsection (e), as redesignated, in the first sentence, by striking “subsection (a) or (c)” and inserting “subsection (a) or (d)”;

(D) in subsection (d), as redesignated, by striking “subsection (a) or (b)” and inserting “subsection (a) or (c)”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 3672 of title 18, United States Code, is amended in the eighth undesignated para-
graph by striking “subsection (b) or (c)” and inserting “subsection (c) or (d)”.

(b) PROMOTING FULL UTILIZATION OF RESIDENTIAL DRUG TREATMENT.—Section 3621(e)(2) of title 18, United States Code, is amended by adding at the end the following:

“(C) COMMENCEMENT OF TREATMENT.—

Not later than 3 years after the date of enactment of this subparagraph, the Director of the Bureau of Prisons shall ensure that each eligible prisoner has an opportunity to commence participation in treatment under this subsection by such date as is necessary to ensure that the prisoner completes such treatment not later than 1 year before the date on which the prisoner would otherwise be released from custody prior to the application of any reduction in sentence pursuant to this paragraph.

“(D) OTHER CREDITS.—The Director of the Bureau of Prisons may, in the Director’s discretion, reduce the credit awarded under subsection (h)(6)(A) to a prisoner who receives a reduction under subparagraph (B), but such reduction may not exceed one-half the amount
of the reduction awarded to the prisoner under
subparagraph (B).”.

(c) **SUPERVISED RELEASE PILOT PROGRAM TO REDUCE RECIDIVISM AND IMPROVE RECOVERY FROM ALCOHOL AND DRUG ABUSE.**—

(1) **IN GENERAL.**—Not later than 2 years after
the date of enactment of this Act, the Administrative
Office of the United States Courts shall establish a
recidivism reduction and recovery enhancement pilot
program, premised on high-intensity supervision and
the use of swift, predictable, and graduated sanc-
tions for noncompliance with program rules, in Fed-
eral judicial districts selected by the Administrative
Office of the United States Courts in consultation
with the Attorney General.

(2) **REQUIREMENTS OF PROGRAM.**—Participa-
tion in the pilot program required under paragraph
(1) shall be subject to the following requirements:

(A) Upon entry into the pilot program, the
court shall notify program participants of the
rules of the program and consequences for vio-
lating such rules, including the penalties to be
imposed as a result of such violations pursuant
to subparagraph (E).
(B) Probation officers shall conduct regular drug testing of all pilot program participants with a history of substance abuse.

(C) In the event that a probation officer determines that a participant has violated a term of supervised release, the officer shall notify the court within 24 hours of such determination, absent good cause.

(D) As soon as is practicable, and in no case more than 1 week after the violation was reported by the probation officer, absent good cause, the court shall conduct a hearing on the alleged violation.

(E) If the court determines that a program participant has violated a term of supervised release, it shall impose an appropriate sanction, which may include the following, if appropriate:

(i) Modification of the terms of such participant’s supervised release, which may include imposition of a period of home confinement.

(ii) Referral to appropriate substance abuse treatment.

(iii) Revocation of the defendant’s supervised release and the imposition of a
sentence of incarceration that is no longer
than necessary to punish the participant
for such violation and deter the participant
from committing future violations.

(iv) For participants who habitually
fail to abide by program rules or pose a
threat to public safety, termination from
the program.

(3) **STATUS OF PARTICIPANT IF INCARCERATED.**—

(A) **IN GENERAL.**—In the event that a pro-
gram participant is sentenced to incarceration
as described in paragraph (2)(E)(iii), the par-
ticipant shall remain in the program upon re-
lease from incarceration unless terminated from
the program in accordance with paragraph
(2)(E)(iv).

(B) **POLICIES FOR MAINTAINING EMPLOY-
MENT.**—The Bureau of Prisons, in consultation
with the Chief Probation Officers of the Federal
judicial districts selected for participation in the
pilot program required under paragraph (1),
shall develop policies to enable program partici-
pants sentenced to terms of incarceration as de-
scribed in paragraph (2)(E) to, where prac-
ticable, serve the terms of incarceration while
maintaining employment, including allowing the
terms of incarceration to be served on week-
ends.

(4) ADVISORY SENTENCING POLICIES.—

(A) IN GENERAL.—The United States Sen-
tencing Commission, in consultation with the
Chief Probation Officers, the United States At-
torneys, Federal Defenders, and Chief Judges
of the districts selected for participation in the
pilot program required under paragraph (1),
shall establish advisory sentencing policies to be
used by the district courts in imposing sen-
tences of incarceration in accordance with para-
graph (2)(E).

(B) REQUIREMENT.—The advisory sen-
tencing policies established under subparagraph
(A) shall be consistent with the stated goal of
the pilot program to impose predictable and
graduated sentences that are no longer than
necessary for violations of program rules.

(5) DURATION OF PROGRAM.—The pilot pro-
gram required under paragraph (1) shall continue
for not less than 5 years and may be extended for
not more than 5 years by the Administrative Office of the United States Courts.

(6) ASSESSMENT OF PROGRAM OUTCOMES AND REPORT TO CONGRESS.—

(A) IN GENERAL.—Not later than 6 years after the date of enactment of this Act, the Administrative Office of the United States Courts shall conduct an evaluation of the pilot program and submit to Congress a report on the results of the evaluation.

(B) CONTENTS.—The report required under subparagraph (A) shall include—

(i) the rates of substance abuse among program participants;

(ii) the rates of violations of the terms of supervised release by program participants, and sanctions imposed;

(iii) information about employment of program participants;

(iv) a comparison of outcomes among program participants with outcomes among similarly situated individuals under the supervision of United States Probation and Pretrial Services not participating in the program; and
(v) an assessment of the effectiveness of each of the relevant features of the program.

SEC. 207. ERIC WILLIAMS CORRECTIONAL OFFICER PROTECTION ACT.

(a) In general.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"§ 4049. Officers and employees of the Bureau of Prisons authorized to carry oleoresin capricum spray

"(a) In general.—The Director of the Bureau of Prisons shall issue, on a routine basis, oleoresin capscium spray to—

"(1) any officer or employee of the Bureau of Prisons who—

"(A) is employed in a prison that is not a minimum or low security prison; and

"(B) may respond to an emergency situation in such a prison; and

"(2) such additional officers and employees of prisons as the Director determines appropriate, in accordance with this section.

"(b) Training requirement.—
“(1) IN GENERAL.—In order for an officer or employee of the Bureau of Prisons, including a correctional officer, to be eligible to receive and carry oleoresin capsicum spray pursuant to this section, the officer or employee shall complete a training course before being issued such spray, and annually thereafter, on the use of oleoresin capsicum spray.

“(2) TRANSFERABILITY OF TRAINING.—An officer or employee of the Bureau of Prisons who completes a training course pursuant to paragraph (1) and subsequently transfers to employment at a different prison, shall not be required to complete an additional training course solely due such transfer.

“(3) TRAINING CONDUCTED DURING REGULAR EMPLOYMENT.—An officer or employee of the Bureau of Prisons who completes a training course required under paragraph (1) shall do so during the course of that officer or employee’s regular employment, and shall be compensated at the same rate that the officer or employee would be compensated for conducting the officer or employee’s regular duties.

“(c) USE OF OLEORESIN CAPSICUM SPRAY.—Officers and employees of the Bureau of Prisons issued oleo-
resin capsicum spray pursuant to subsection (a) may use such spray to reduce acts of violence—

“(1) committed by prisoners against themselves, other prisoners, prison visitors, and officers and employees of the Bureau of Prisons; and

“(2) committed by prison visitors against themselves, prisoners, other visitors, and officers and employees of the Bureau of Prisons.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 303 of part III of title 18, United States Code, is amended by inserting after the item relating to section 4048 the following:

“4049. Officers and employees of the Bureau of Prisons authorized to carry oleoresin capsicum spray.”.

(c) GAO REPORT.—Not later than the date that is 3 years after the date on which the Director of the Bureau of Prisons begins to issue oleoresin capsicum spray to officers and employees of the Bureau of Prisons pursuant to section 4049 of title 18, United States Code (as added by this title), the Comptroller General of the United States shall submit to Congress a report that includes the following:

(1) An evaluation of the effectiveness of issuing oleoresin capsicum spray to officers and employees of the Bureau of Prisons in prisons that are not minimum or low security prisons on—
(A) reducing crime in such prisons; and

(B) reducing acts of violence committed by prisoners against themselves, other prisoners, prison visitors, and officers and employees of the Bureau of Prisons in such prisons.

(2) An evaluation of the advisability of issuing oleoresin capsicum spray to officers and employees of the Bureau of Prisons in prisons that are minimum or low security prisons, including—

(A) the effectiveness that issuing such spray in such prisons would have on reducing acts of violence committed by prisoners against themselves, other prisoners, prison visitors, and officers and employees of the Bureau of Prisons in such prisons; and

(B) the cost of issuing such spray in such prisons. Recommendations to improve the safety of officers and employees of the Bureau of Prisons in prisons.

SEC. 208. PROMOTING SUCCESSFUL REENTRY.

(a) FEDERAL REENTRY DEMONSTRATION PROJECTS.—

(1) EVALUATION OF EXISTING BEST PRACTICES FOR REENTRY.—Not later than 2 years after the date of enactment of this Act, the Attorney General,
in consultation with the Administrative Office of the United States Courts, shall—

(A) evaluate best practices used for the re-entry into society of individuals released from the custody of the Bureau of Prisons, including—

(i) conducting examinations of reentry practices in State and local justice systems; and

(ii) consulting with Federal, State, and local prosecutors, Federal, State, and local public defenders, nonprofit organizations that provide reentry services, and criminal justice experts; and

(B) submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that details the evaluation conducted under subparagraph (A).

(2) CREATION OF REENTRY DEMONSTRATION PROJECTS.—Not later than 3 years after the date of enactment of this Act, the Attorney General, in consultation with the Administrative Office of the United States Courts, shall, subject to the availability of appropriations, select an appropriate num-
ber of Federal judicial districts to conduct Federal
reentry demonstration projects using the best prac-
tices identified in the evaluation conducted under
paragraph (1). The Attorney General shall deter-
mine the appropriate number of Federal judicial dis-
tricts to conduct demonstration projects under this
paragraph.

(3) PROJECT DESIGN.—For each Federal judi-
cial district selected under paragraph (2), the United
States Attorney, in consultation with the Chief
Judge, Chief Federal Defender, the Chief Probation
Officer, the Bureau of Justice Assistance, the Na-
tional Institute of Justice, and criminal justice ex-
erts shall design a Federal reentry demonstration
project for the Federal judicial district in accordance
with paragraph (4).

(4) PROJECT ELEMENTS.—A project designed
under paragraph (3) shall coordinate efforts by Fed-
eral agencies to assist participating prisoners in pre-
paring for and adjusting to reentry into the commu-
nity and may include, as appropriate—

(A) the use of community correctional fa-
cilities and home confinement, as determined to
be appropriate by the Bureau of Prisons;
(B) a reentry review team for each prisoner to develop a reentry plan specific to the needs of the prisoner, and to meet with the prisoner following transfer to monitor the re-entry plan;

(C) steps to assist the prisoner in obtaining health care, housing, and employment, before the prisoner’s release from a community correctional facility or home confinement;

(D) regular drug testing for participants with a history of substance abuse;

(E) substance abuse treatment, which may include addiction treatment medication, if appropriate, medical treatment, including mental health treatment, occupational, vocational and educational training, apprenticeships, life skills instruction, recovery support, conflict resolution training, and other programming to promote effective reintegration into the community;

(F) the participation of volunteers to serve as advisors and mentors to prisoners being released into the community;

(G) steps to ensure that the prisoner makes satisfactory progress toward satisfying any obligations to victims of the prisoner’s of-
fense, including any obligation to pay restitution; and

(H) the appointment of a reentry coordinator in the United States Attorney’s Office.

(5) REVIEW OF PROJECT OUTCOMES.—Not later than 5 years after the date of enactment of this Act, the Administrative Office of the United States Courts, in consultation with the Attorney General, shall—

(A) evaluate the results from each Federal judicial district selected under paragraph (2), including the extent to which participating prisoners released from the custody of the Bureau of Prisons were successfully reintegrated into their communities, including whether the participating prisoners maintained employment, and refrained from committing further offenses; and

(B) submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that contains—

(i) the evaluation of the best practices identified in the report required under paragraph (1); and
(ii) the results of the demonstration projects required under paragraph (2).

(b) Study on the Impact of Reentry on Certain Communities.—

(1) In General.—Not later than 2 years after the date of enactment of this Act, the Attorney General, in consultation with the Administrative Office of the United States Courts, shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the impact of reentry of prisoners on communities in which a disproportionate number of individuals reside upon release from incarceration.

(2) Contents.—The report required under paragraph (1) shall analyze the impact of reentry of individuals released from both State and Federal correctional systems as well as State and Federal juvenile justice systems, and shall include—

(A) an assessment of the reentry burdens borne by local communities;

(B) a review of the resources available in such communities to support successful reentry, including resources provided by State, local,
and Federal governments, the extent to which
those resources are used effectively; and

(C) recommendations to strengthen the re-
sources in such communities available to sup-
port successful reentry and to lessen the burden
placed on such communities by the need to sup-
port reentry.

(c) Facilitating Reentry Assistance to Vet-
erans.—

(1) In General.—Not later than 2 months
after the date of the commencement of a prisoner’s
sentence pursuant to section 3585(a) of title 18,
United States Code, the Director of the Bureau of
Prisons shall notify the Secretary of Veterans Af-
fairs if the prisoner’s presentence report, prepared
pursuant to section 3552 of title 18, United States
Code, indicates that the prisoner has previously
served in the Armed Forces of the United States or
if the prisoner has so notified the Bureau of Prisons.

(2) Post-commencement Notice.—If the
prisoner informs the Bureau of Prisons of the pris-
oner’s prior service in the Armed Forces of the
United States after the commencement of the pris-
oner’s sentence, the Director of the Bureau of Pris-
ons shall notify the Secretary of Veterans Affairs
not later than 2 months after the date on which the
prisoner provides such notice.

(3) CONTENTS OF NOTICE.—The notice pro-
vided by the Director of the Bureau of Prisons to
the Secretary of Veterans Affairs under this sub-
section shall include the identity of the prisoner, the
facility in which the prisoner is located, the pris-
oner’s offense of conviction, and the length of the
prisoner’s sentence.

(4) ACCESS TO VA.—The Bureau of Prisons
shall provide the Department of Veterans Affairs
with reasonable access to any prisoner who has pre-
viously served in the Armed Forces of the United
States for purposes of facilitating that prisoner’s re-
entry.

SEC. 209. PAROLE FOR JUVENILES.

(a) IN GENERAL.—Chapter 403 of title 18, United
States Code, is amended by inserting after section 5032
the following:

“§ 5032A. Modification of an imposed term of impris-
onment for violations of law committed
prior to age 18

“(a) IN GENERAL.—Notwithstanding any other pro-
vision of law, a court may reduce a term of imprisonment
imposed upon a defendant convicted as an adult for an
offense committed and completed before the defendant attained 18 years of age if—

“(1) the defendant has served 20 years in prison for the offense; and

“(2) the court finds, after considering the factors set forth in subsection (c), that the defendant is not a danger to the safety of any person or the community and that the interests of justice warrant a sentence modification.

“(b) SUPERVISED RELEASE.—Any defendant whose sentence is reduced pursuant to subsection (a) shall be ordered to serve a period of supervised release of not less than 5 years following release from imprisonment. The conditions of supervised release and any modification or revocation of the term of supervise release shall be in accordance with section 3583.

“(c) FACTORS AND INFORMATION TO BE CONSIDERED IN DETERMINING WHETHER TO MODIFY A TERM OF IMPRISONMENT.—The court, in determining whether to reduce a term of imprisonment pursuant to subsection (a), shall consider—

“(1) the factors described in section 3553(a), including the nature of the offense and the history and characteristics of the defendant;
“(2) the age of the defendant at the time of the offense;

“(3) a report and recommendation of the Bureau of Prisons, including information on whether the defendant has substantially complied with the rules of each institution to which the defendant has been confined and whether the defendant has completed any educational, vocational, or other prison program, where available;

“(4) a report and recommendation of the United States attorney for any district in which an offense for which the defendant is imprisoned was prosecuted;

“(5) whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction;

“(6) any statement, which may be presented orally or otherwise, by any victim of an offense for which the defendant is imprisoned or by a family member of the victim if the victim is deceased;

“(7) any report of physical, mental, or psychiatric examination of the defendant conducted by a licensed health care professional;

“(8) the family and community circumstances of the defendant at the time of the offense, including
any history of abuse, trauma, or involvement in the child welfare system;

“(9) the extent of the role of the defendant in the offense and whether, and to what extent, an adult was involved in the offense;

“(10) the diminished culpability of juveniles as compared to that of adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing them to the otherwise applicable term of imprisonment; and

“(11) any other information the court determines relevant to the decision of the court.

“(d) Limitation on Applications Pursuant to This Section.—

“(1) Second Application.—Not earlier than 5 years after the date on which an order entered by a court on an initial application under this section becomes final, a court shall entertain a second application by the same defendant under this section.

“(2) Final Application.—Not earlier than 5 years after the date on which an order entered by a court on a second application under paragraph (1) becomes final, a court shall entertain a final application by the same defendant under this section.
“(3) Prohibition.—A court may not entertain an application filed after an application filed under paragraph (2) by the same defendant.

“(e) Procedures.—

“(1) Notice.—The Bureau of Prisons shall provide written notice of this section to—

“(A) any defendant who has served 19 years in prison for an offense committed and completed prior to the defendant’s 18th birthday for which the defendant was convicted as an adult; and

“(B) the sentencing court, the United States attorney, and the Federal Public Defender or Executive Director of the Community Defender Organization for the judicial district in which the sentence described in subparagraph (A) was imposed.

“(2) Crime Victims Rights.—Upon receiving noticed under paragraph (1), the United States attorney shall provide any notifications required under section 3771.

“(3) Application.—

“(A) In General.—An application for a sentence reduction under this section shall be filed as a motion to reduce the sentence of the
defendant and may include affidavits or other written material.

“(B) REQUIREMENT.—A motion to reduce a sentence under this section shall be filed with the sentencing court and a copy shall be served on the United States attorney for the judicial district in which the sentence was imposed.

“(4) EXPANDING THE RECORD; HEARING.—

“(A) EXPANDING THE RECORD.—After the filing of a motion to reduce a sentence under this section, the court may direct the parties to expand the record by submitting additional written materials relating to the motion.

“(B) HEARING.—

“(i) IN GENERAL.—The court shall conduct a hearing on the motion, at which the defendant and counsel for the defendant shall be given the opportunity to be heard.

“(ii) EVIDENCE.—In a hearing under this section, the court may allow for parties to present evidence.

“(iii) DEFENDANT’S PRESENCE.—At a hearing under this section, the defendant shall be present unless the defendant
waives the right to be present. The re-
requirement under this clause may be satis-
fied by the defendant appearing by video
teleconference.

“(iv) COUNSEL.—A defendant who is
unable to obtain counsel is entitled to have
counsel appointed to represent the defend-
ant for proceedings under this section, in-
cluding any appeal, unless the defendant
waives the right to counsel.

“(v) FINDINGS.—The court shall state
in open court, and file in writing, the rea-
sons for granting or denying a motion
under this section.

“(C) APPEAL.—The Government or the
defendant may file a notice of appeal in the dis-
trict court for review of a final order under this
section. The time limit for filing such appeal
shall be governed by rule 4(a) of the Federal
Rules of Appellate Procedure.

“(f) EDUCATIONAL AND REHABILITATIVE PRO-
GRAMS.—A defendant who is convicted and sentenced as
an adult for an offense committed and completed before
the defendant attained 18 years of age may not be de-
prived of any educational, training, or rehabilitative pro-
gram that is otherwise available to the general prison pop-
ulation.”.

(b) TABLE OF SECTIONS.—The table of sections for
chapter 403 of title 18, United States Code, is amended
by inserting after the item relating to section 5032 the
following:

“5032A. Modification of an imposed term of imprisonment for violations of law
committed prior to age 18.”.

(c) APPLICABILITY.—The amendments made by this
section shall apply to any conviction entered before, on,
or after the date of enactment of this Act.

SEC. 210. COMPASSIONATE RELEASE INITIATIVE.

Section 231(g) of the Second Chance Act of 2007 (42
U.S.C. 17541(g)) is amended—

(1) in paragraph (1)(B), by inserting “, upon
written request from either the Bureau of Prisons or
an eligible aging offender” after “to home deten-
tion”;

(2) in paragraph (3), by striking “and shall be
carried out during fiscal years 2009 and 2010”; and

(3) in paragraph (5)(A)—

(A) in clause (i), by striking “65 years”
and inserting “60 years”;

(B) in clause (ii)—

(i) by striking “the greater of 10
years or”; and
(ii) by striking “75 percent” and inserting “2/3”;

(C) in clause (vi), by striking “and” at the end;

(D) in clause (vii), by striking the period at the end and inserting “; and”; and

(E) by adding at the end the following:

“(viii) who—

“(I) is receiving or in medical need of care at a nursing home, intermediate care facility, or assisted living facility, as those terms are defined in section 232 of the National Housing Act (12 U.S.C. 1715w); or

“(II) has been diagnosed with a terminal illness.”.

SEC. 211. JUVENILE SEALING AND EXPUNGEMENT.

(a) PURPOSE.—The purpose of this section is to—

(1) protect children and adults against damage stemming from their juvenile acts and subsequent juvenile delinquency records, including law enforcement, arrest, and court records; and

(2) prevent the unauthorized use or disclosure of confidential juvenile delinquency records and any potential employment, financial, psychological, or
other harm that would result from such unauthorized use or disclosure.

(b) DEFINITIONS.—Section 5031 of title 18, United States Code, is amended to read as follows:

“§ 5031. Definitions

“In this chapter—

“(1) the term ‘adjudication’ means a determination by a judge that a person committed an act of juvenile delinquency;

“(2) the term ‘conviction’ means a judgment or disposition in criminal court against a person following a finding of guilt by a judge or jury;

“(3) the term ‘destroy’ means to render a file unreadable, whether paper, electronic, or otherwise stored, by shredding, pulverizing, pulping, incinerating, overwriting, reformatting the media, or other means;

“(4) the term ‘expunge’ means to destroy a record and obliterate the name of the person to whom the record pertains from each official index or public record;

“(5) the term ‘expungement hearing’ means a hearing held under section 5044(b)(2)(B);
“(6) the term ‘expungement petition’ means a petition for expungement filed under section 5044(b);

“(7) the term ‘juvenile’ means—

“(A) except as provided in subparagraph (B), a person who has not attained the age of 18; and

“(B) for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained the age of 21;

“(8) the term ‘juvenile delinquency’ means the violation of a law of the United States committed by a person before attaining the age of 18 which would have been a crime if committed by an adult, or a violation by such a person of section 922(x);

“(9) the term ‘juvenile nonviolent offense’ means—

“(A) in the case of an arrest or an adjudication that is dismissed or finds the juvenile to be not delinquent, an act of juvenile delinquency that is not—

“(i) a criminal homicide, forcible rape or any other sex offense (as defined in section 111 of the Sex Offender Registration
and Notification Act (42 U.S.C. 16911)), kidnapping, aggravated assault, robbery, burglary of an occupied structure, arson, or a drug trafficking crime in which a firearm was used; or

“(ii) a Federal crime of terrorism (as defined in section 2332b(g)); and

“(B) in the case of an adjudication that finds the juvenile to be delinquent, an act of juvenile delinquency that is not—

“(i) described in clause (i) or (ii) of subparagraph (A); or

“(ii) a misdemeanor crime of domestic violence (as defined in section 921(a)(33));

“(10) the term ‘juvenile record’—

“(A) means a record maintained by a court, the probation system, a law enforcement agency, or any other government agency, of the juvenile delinquency proceedings of a person;

“(B) includes—

“(i) a juvenile legal file, including a formal document such as a petition, notice, motion, legal memorandum, order, or decree;

“(ii) a social record, including—
“(I) a record of a probation officer;

“(II) a record of any government agency that keeps records relating to juvenile delinquency;

“(III) a medical record;

“(IV) a psychiatric or psychological record;

“(V) a birth certificate;

“(VI) an education record, including an individualized education plan;

“(VII) a detention record;

“(VIII) demographic information that identifies a juvenile or the family of a juvenile; or

“(IX) any other record that includes personally identifiable information that may be associated with a juvenile delinquency proceeding, an act of juvenile delinquency, or an alleged act of juvenile delinquency; and

“(iii) a law enforcement record, including a photograph or a State criminal justice information system record; and
“(C) does not include—

“(i) fingerprints; or

“(ii) a DNA sample;

“(11) the term ‘petitioner’ means a person who files an expungement petition or a sealing petition;

“(12) the term ‘seal’ means—

“(A) to close a record from public viewing so that the record cannot be examined except as otherwise provided under section 5043; and

“(B) to physically seal the record shut and label the record ‘SEALED’ or, in the case of an electronic record, the substantive equivalent;

“(13) the term ‘sealing hearing’ means a hearing held under section 3632(b)(2)(B); and

“(14) the term ‘sealing petition’ means a petition for a sealing order filed under section 5043(b).”.

(c) CONFIDENTIALITY.—Section 5038 of title 18, United States Code, is amended—

(1) in subsection (a), in the flush text following paragraph (6), by inserting after “bonding,” the following: “participation in an educational system,”;

and

(2) in subsection (b), by striking “District courts exercising jurisdiction over any juvenile” and
inserting the following: “Not later than 7 days after
the date on which a district court exercises jurisdic-
tion over a juvenile, the district court”.
(d) SEALING; EXPUNGEMENT.—
(1) IN GENERAL.—Chapter 403 of title 18, United States Code, is amended by adding at the end the following:

“§ 5043. Sealing
“(a) AUTOMATIC SEALING OF NONVIOLENT OF-
FENSES.—
“(1) IN GENERAL.—Three years after the date
on which a person who is adjudicated delinquent
under this chapter for a juvenile nonviolent offense
completes every term of probation, official detention,
or juvenile delinquent supervision ordered by the
court with respect to the offense, the court shall
order the sealing of each juvenile record or portion
thereof that relates to the offense if the person—
“(A) has not been convicted of a crime or
adjudicated delinquent for an act of juvenile de-
linquency since the date of the disposition; and
“(B) is not engaged in active criminal
court proceedings or juvenile delinquency pro-
ceedings.
“(2) Automatic nature of sealing.—The order of sealing under paragraph (1) shall require no action by the person whose juvenile records are to be sealed.

“(3) Notice of automatic sealing.—A court that orders the sealing of a juvenile record of a person under paragraph (1) shall, in writing, inform the person of the sealing and the benefits of sealing the record.

“(b) Petitioning for Early Sealing of Non-violent Offenses.—

“(1) Right to file sealing petition.—

“(A) In general.—During the 3-year period beginning on the date on which a person who is adjudicated delinquent under this chapter for a juvenile nonviolent offense completes every term of probation, official detention, or juvenile delinquent supervision ordered by the court with respect to the offense, the person may petition the court to seal the juvenile records that relate to the offense unless the person—

“(i) has been convicted of a crime or adjudicated delinquent for an act of juve-
nile delinquency since the date of the dis-
position; or

“(ii) is engaged in active criminal
court proceedings or juvenile delinquency
proceedings.

“(B) NOTICE OF OPPORTUNITY TO FILE
PETITION.—If a person is adjudicated delin-
quent for a juvenile nonviolent offense, the
court in which the person is adjudicated delin-
quent shall, in writing, inform the person of the
potential eligibility of the person to file a seal-
ing petition with respect to the offense upon
completing every term of probation, official de-
tention, or juvenile delinquent supervision or-
dered by the court with respect to the offense,
and the necessary procedures for filing the seal-
ing petition—

“(i) on the date on which the indi-
vidual is adjudicated delinquent; and

“(ii) on the date on which the indi-
vidual has completed every term of proba-
tion, official detention, or juvenile delin-
quent supervision ordered by the court
with respect to the offense.

“(2) PROCEDURES.—
“(A) NOTIFICATION TO PROSECUTOR.—If a person files a sealing petition with respect to a juvenile nonviolent offense, the court in which the petition is filed shall provide notice of the petition—

“(i) to the Attorney General; and

“(ii) upon the request of the petitioner, to any other individual that the petitioner determines may testify as to—

“(I) the conduct of the petitioner since the date of the offense; or

“(II) the reasons that the sealing order should be entered.

“(B) HEARING.—

“(i) IN GENERAL.—If a person files a sealing petition, the court shall—

“(I) except as provided in clause (iii), conduct a hearing in accordance with clause (ii); and

“(II) determine whether to enter a sealing order for the person in accordance with subparagraph (C).

“(ii) OPPORTUNITY TO TESTIFY AND OFFER EVIDENCE.—
“(I) Petitioner.—The petitioner may testify or offer evidence at the sealing hearing in support of sealing.

“(II) Prosecutor.—The Attorney General may send a representative to testify or offer evidence at the sealing hearing in support of or against sealing.

“(III) Other individuals.—An individual who receives notice under subparagraph (A)(ii) may testify or offer evidence at the sealing hearing as to the issues described in subclauses (I) and (II) of that subparagraph.

“(iii) Waiver of hearing.—If the petitioner and the Attorney General so agree, the court shall make a determination under subparagraph (C) without a hearing.

“(C) Basis for decision.—The court shall determine whether to grant the sealing petition after considering—
“(i) the sealing petition and any documents in the possession of the court;

“(ii) all the evidence and testimony presented at the sealing hearing, if such a hearing is conducted;

“(iii) the best interests of the petitioner;

“(iv) the age of the petitioner during his or her contact with the court or any law enforcement agency;

“(v) the nature of the juvenile non-violent offense;

“(vi) the disposition of the case;

“(vii) the manner in which the petitioner participated in any court-ordered rehabilitative programming or supervised services;

“(viii) the length of the time period during which the petitioner has been without contact with any court or law enforcement agency;

“(ix) whether the petitioner has had any criminal or juvenile delinquency involvement since the disposition of the juvenile delinquency proceeding; and
“(x) the adverse consequences the petitioner may suffer if the petition is not granted.

“(D) WAITING PERIOD AFTER DENIAL.—If the court denies a sealing petition, the petitioner may not file a new sealing petition with respect to the same juvenile nonviolent offense until the date that is 2 years after the date of the denial.

“(E) UNIVERSAL FORM.—The Director of the Administrative Office of the United States Courts shall create a universal form, available over the Internet and in paper form, that an individual may use to file a sealing petition.

“(F) NO FEE FOR INDIGENT PETITIONERS.—If the court determines that the petitioner is indigent, there shall be no cost for filing a sealing petition.

“(G) REPORTING.—Not later than 2 years after the date of enactment of this section, and each year thereafter, the Director of the Administrative Office of the United States Courts shall issue a public report that—

“(i) describes—
“(I) the number of sealing petitions granted and denied under this subsection; and

“(II) the number of instances in which the Attorney General supported or opposed a sealing petition;

“(ii) includes any supporting data that the Director determines relevant and that does not name any petitioner; and

“(iii) disaggregates all relevant data by race, ethnicity, gender, and the nature of the offense.

“(H) PUBLIC DEFENDER ELIGIBILITY.—

“(i) PETITIONERS UNDER AGE 18.— The district court shall appoint counsel in accordance with the plan of the district court in operation under section 3006A to represent a petitioner for purposes of this subsection if the petitioner is less than 18 years of age.

“(ii) PETITIONERS AGE 18 AND OLDER.—

“(I) DISCRETION OF COURT.—In the case of a petitioner who is not less than 18 years of age, the district
court may, in its discretion, appoint counsel in accordance with the plan of the district court in operation under section 3006A to represent the petitioner for purposes of this subsection.

“(II) CONSIDERATIONS.—In determining whether to appoint counsel under subclause (I), the court shall consider—

“(aa) the anticipated complexity of the sealing hearing, including the number and type of witnesses called to advocate against the sealing of the records of the petitioner; and

“(bb) the potential for adverse testimony by a victim or a representative of the Attorney General.

“(c) EFFECT OF SEALING ORDER.—

“(1) PROTECTION FROM PERJURY LAWS.—Except as provided in paragraph (4)(C)(i), if a court orders the sealing of a juvenile record of a person under subsection (a) or (b) with respect to a juvenile nonviolent offense, the person shall not be held
under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of the person’s failure to recite or acknowledge the offense and any arrest, juvenile delinquency proceeding, adjudication, or other result of such proceeding relating to the offense in response to an inquiry made of the person for any purpose.

“(2) VERIFICATION OF SEALING.—If a court orders the sealing of a juvenile record under subsection (a) or (b) with respect to a juvenile non-violent offense, the court shall—

“(A) send a copy of the sealing order to each entity or person known to the court that possesses a record relating to the offense, including each—

“(i) law enforcement agency; and
“(ii) public or private correctional or detention facility;

“(B) in the sealing order, require each entity or person described in subparagraph (A) to—

“(i) seal the record; and
“(ii) submit a written certification to the court, under penalty of perjury, that
the entity or person has sealed each paper
and electronic copy of the record;
“(C) seal each paper and electronic copy of
the record in the possession of the court; and
“(D) after receiving a written certification
from each entity or person under subparagraph
(B)(ii), notify the petitioner that each entity or
person described in subparagraph (A) has
sealed each paper and electronic copy of the
record.
“(3) LAW ENFORCEMENT ACCESS TO SEALED
RECORDS.—
“(A) IN GENERAL.—Except as provided in
subparagraph (B), a law enforcement agency
may access a sealed juvenile record in the pos-
session of the agency or another law enforce-
ment agency solely—
“(i) to determine whether the person
who is the subject of the record is a non-
violent offender eligible for a first-time-off-
fender diversion program;
“(ii) for investigatory or prosecutorial
purposes within the juvenile justice system;
or
“(iii) for a background check that relates to—

“(I) law enforcement employment; or

“(II) any position that a Federal agency designates as a—

“(aa) national security position; or

“(bb) high-risk, public trust position.

“(B) TRANSITION PERIOD.—During the 1-year period beginning on the date on which a court orders the sealing of a juvenile record under this section, a law enforcement agency may, for law enforcement purposes, access the record if it is in the possession of the agency or another law enforcement agency.

“(4) PROHIBITION ON DISCLOSURE.—

“(A) PROHIBITION.—Except as provided in subparagraph (C), it shall be unlawful to intentionally make or attempt to make an unauthorized disclosure of any information from a sealed juvenile record in violation of this section.
“(B) Penalty.—Any person who violates subparagraph (A) shall be fined under this title, imprisoned for not more than 1 year, or both.

“(C) Exceptions.—

“(i) Background checks.—In the case of a background check for law enforcement employment or for any employment that requires a government security clearance—

“(I) a person who is the subject of a juvenile record sealed under this section shall disclose the contents of the record; and

“(II) a law enforcement agency that possesses a juvenile record sealed under this section—

“(aa) may disclose the contents of the record; and

“(bb) if the agency obtains or is subject to a court order authorizing disclosure of the record, may disclose the record.

“(ii) Disclosure to Armed Forces.—A person, including a law enforcement agency that possesses a juvenile
record sealed under this section, may dis-
close information from a juvenile record
sealed under this section to the Secretaries
of the military departments (or the Sec-
retary of Homeland Security with respect
to the Coast Guard when it is not oper-
ating as a service in the Navy) for the pur-
pose of vetting an enlistment or commis-
sion, or with regard to any member of the
Armed Forces.

“(iii) CRIMINAL AND JUVENILE PRO-
CEEDINGS.—A prosecutor may disclose in-
formation from a juvenile record sealed
under this section if the information per-
tains to a potential witness in a Federal or
State—

“(I) criminal proceeding; or

“(II) juvenile delinquency pro-
ceeding.

“(iv) AUTHORIZATION FOR PERSON
TO DISCLOSE OWN RECORD.—A person
who is the subject of a juvenile record
sealed under this section may choose to
disclose the record.
“(d) LIMITATION RELATING TO SUBSEQUENT INCIDENTS.—

“(1) AFTER FILING AND BEFORE PETITION GRANTED.—If, after the date on which a person files a sealing petition with respect to a juvenile offense and before the court determines whether to grant the petition, the person is convicted of a crime, adjudicated delinquent for an act of juvenile delinquency, or engaged in active criminal court proceedings or juvenile delinquency proceedings, the court shall deny the petition.

“(2) AFTER PETITION GRANTED.—If, on or after the date on which a court orders the sealing of a juvenile record of a person under subsection (b), the person is convicted of a crime, adjudicated delinquent for an act of juvenile delinquency, or engaged in active criminal court proceedings or juvenile delinquency proceedings—

“(A) the court shall—

“(i) vacate the order; and

“(ii) notify the person who is the subject of the juvenile record, and each entity or person described in subsection (c)(2)(A), that the order has been vacated; and
“(B) the record shall no longer be sealed.

“(e) INCLUSION OF STATE JUVENILE DELINQUENCY ADJUDICATIONS AND PROCEEDINGS.—For purposes of subparagraphs (A) and (B) of subsection (a)(1), clauses (i) and (ii) of subsection (b)(1)(A), and paragraphs (1) and (2) of subsection (d), the term ‘juvenile delinquency’ includes the violation of a law of a State committed by a person before attaining the age of 18 which would have been a crime if committed by an adult.

§ 5044. Expungement

“(a) AUTOMATIC EXPUNGEMENT OF CERTAIN RECORDS.—

“(1) ATTORNEY GENERAL MOTION.—

“(A) NONVIOLENT OFFENSES COMMITTED BEFORE A PERSON TURNED 15.—If a person is adjudicated delinquent under this chapter for a juvenile nonviolent offense committed before the person attained 15 years of age, on the date on which the person attains 18 years of age, the Attorney General shall file a motion in the district court of the United States in which the person was adjudicated delinquent requesting that each juvenile record of the person that relates to the offense be expunged.
“(B) ARRESTS.—If a juvenile is arrested for a juvenile nonviolent offense for which a juvenile delinquency proceeding is not instituted under this chapter, and for which the United States does not proceed against the juvenile as an adult in a district court of the United States, the Attorney General shall file a motion in the district court of the United States that would have had jurisdiction of the proceeding requesting that each juvenile record relating to the arrest be expunged.

“(C) EXPUNGEMENT ORDER.—Upon the filing of a motion in a district court of the United States with respect to a juvenile nonviolent offense under subparagraph (A) or an arrest for a juvenile nonviolent offense under subparagraph (B), the court shall grant the motion and order that each juvenile record relating to the offense or arrest, as applicable, be expunged.

“(2) DISMISSED CASES.—If a district court of the United States dismisses an information with respect to a juvenile under this chapter or finds a juvenile not to be delinquent in a juvenile delinquency proceeding under this chapter, the court shall con-
currently order that each juvenile record relating to the applicable proceeding be expunged.

“(3) AUTOMATIC NATURE OF EXPUNGEMENT.—
An order of expungement under paragraph (1)(C) or (2) shall not require any action by the person whose records are to be expunged.

“(4) NOTICE OF AUTOMATIC EXPUNGEMENT.—
A court that orders the expungement of a juvenile record of a person under paragraph (1)(C) or (2) shall, in writing, inform the person of the expungement and the benefits of expunging the record.

“(b) PETITIONING FOR EXPUNGEMENT OF NON-VIOLENT OFFENSES.—

“(1) IN GENERAL.—A person who is adjudicated delinquent under this chapter for a juvenile nonviolent offense committed on or after the date on which the person attained 15 years of age may petition the court in which the proceeding took place to order the expungement of the juvenile record that relates to the offense unless the person—

“(A) has been convicted of a crime or adjudicated delinquent for an act of juvenile delinquency since the date of the disposition;
“(B) is engaged in active criminal court proceedings or juvenile delinquency proceedings; or

“(C) has had not less than 2 adjudications of delinquency previously expunged under this section.

“(2) PROCEDURES.—

“(A) NOTIFICATION OF PROSECUTOR AND VICTIMS.—If a person files an expungement petition with respect to a juvenile nonviolent offense, the court in which the petition is filed shall provide notice of the petition—

“(i) to the Attorney General; and

“(ii) upon the request of the petitioner, to any other individual that the petitioner determines may testify as to—

“(I) the conduct of the petitioner since the date of the offense; or

“(II) the reasons that the expungement order should be entered.

“(B) HEARING.—

“(i) IN GENERAL.—If a person files an expungement petition, the court shall—
“(I) except as provided in clause (iii), conduct a hearing in accordance with clause (ii); and

“(II) determine whether to enter an expungement order for the person in accordance with subparagraph (C).

“(ii) OPPORTUNITY TO TESTIFY AND OFFER EVIDENCE.—

“(I) PETITIONER.—The petitioner may testify or offer evidence at the expungement hearing in support of expungement.

“(II) PROSECUTOR.—The Attorney General may send a representative to testify or offer evidence at the expungement hearing in support of or against expungement.

“(III) OTHER INDIVIDUALS.—An individual who receives notice under subparagraph (A)(ii) may testify or offer evidence at the expungement hearing as to the issues described in subclauses (I) and (II) of that subparagraph.
“(C) BASIS FOR DECISION.—The court shall determine whether to grant an expungement petition after considering—

“(i) the petition and any documents in the possession of the court;

“(ii) all the evidence and testimony presented at the expungement hearing, if such a hearing is conducted;

“(iii) the best interests of the petitioner;

“(iv) the age of the petitioner during his or her contact with the court or any law enforcement agency;

“(v) the nature of the juvenile non-violent offense;

“(vi) the disposition of the case;

“(vii) the manner in which the petitioner participated in any court-ordered rehabilitative programming or supervised services;

“(viii) the length of the time period during which the petitioner has been without contact with any court or any law enforcement agency;
“(ix) whether the petitioner has had any criminal or juvenile delinquency involvement since the disposition of the juvenile delinquency proceeding; and

“(x) the adverse consequences the petitioner may suffer if the petition is not granted.

“(D) Waiting period after denial.—If the court denies an expungement petition, the petitioner may not file a new expungement petition with respect to the same offense until the date that is 2 years after the date of the denial.

“(E) Universal form.—The Director of the Administrative Office of the United States Courts shall create a universal form, available over the Internet and in paper form, that an individual may use to file an expungement petition.

“(F) No fee for indigent petitioners.—If the court determines that the petitioner is indigent, there shall be no cost for filing an expungement petition.

“(G) Reporting.—Not later than 2 years after the date of enactment of this section, and each year thereafter, the Director of the Admin-
istrative Office of the United States Courts shall issue a public report that—

“(i) describes—

“(I) the number of expungement petitions granted and denied under this subsection; and

“(II) the number of instances in which the Attorney General supported or opposed an expungement petition;

“(ii) includes any supporting data that the Director determines relevant and that does not name any petitioner; and

“(iii) disaggregates all relevant data by race, ethnicity, gender, and the nature of the offense.

“(H) PUBLIC DEFENDER ELIGIBILITY.—

“(i) Petitioners under age 18.— The district court shall appoint counsel in accordance with the plan of the district court in operation under section 3006A to represent a petitioner for purposes of this subsection if the petitioner is less than 18 years of age.

“(ii) Petitioners age 18 and older.—
“(I) DISCRETION OF COURT.—In the case of a petitioner who is not less than 18 years of age, the district court may, in its discretion, appoint counsel in accordance with the plan of the district court in operation under section 3006A to represent the petitioner for purposes of this subsection.

“(II) CONSIDERATIONS.—In determining whether to appoint counsel under subclause (I), the court shall consider—

“(aa) the anticipated complexity of the expungement hearing, including the number and type of witnesses called to advocate against the expungement of the records of the petitioner; and

“(bb) the potential for adverse testimony by a victim or a representative of the Attorney General.

“(c) EFFECT OF EXPUNGED JUVENILE RECORD.—

“(1) PROTECTION FROM PERJURY LAWS.—Except as provided in paragraph (4)(C), if a court or—
orders the expungement of a juvenile record of a person under subsection (a) or (b) with respect to a juvenile nonviolent offense, the person shall not be held under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of the person’s failure to recite or acknowledge the offense and any arrest, juvenile delinquency proceeding, adjudication, or other result of such proceeding relating to the offense in response to an inquiry made of the person for any purpose.

“(2) Verification of Expungement.—If a court orders the expungement of a juvenile record under subsection (a) or (b) with respect to a juvenile nonviolent offense, the court shall—

“(A) send a copy of the expungement order to each entity or person known to the court that possesses a record relating to the offense, including each—

“(i) law enforcement agency; and

“(ii) public or private correctional or detention facility;

“(B) in the expungement order—

“(i) require each entity or person described in subparagraph (A) to—
“(I) seal the record for 1 year and, during that 1-year period, apply paragraphs (3) and (4) of section 5043(c) with respect to the record;

“(II) on the date that is 1 year after the date of the order, destroy the record unless a subsequent incident described in subsection (d)(2) occurs; and

“(III) submit a written certification to the court, under penalty of perjury, that the entity or person has destroyed each paper and electronic copy of the record; and

“(ii) explain that if a subsequent incident described in subsection (d)(2) occurs, the order shall be vacated and the record shall no longer be sealed;

“(C) on the date that is 1 year after the date of the order, destroy each paper and electronic copy of the record in the possession of the court unless a subsequent incident described in subsection (d)(2) occurs; and

“(D) after receiving a written certification from each entity or person under subparagraph
(B)(i)(III), notify the petitioner that each entity or person described in subparagraph (A) has destroyed each paper and electronic copy of the record.

“(3) Reply to inquiries.—On and after the date that is 1 year after the date on which a court orders the expungement of a juvenile record of a person under this section, in the case of an inquiry relating to the juvenile record, the court, each law enforcement officer, any agency that provided treatment or rehabilitation services to the person, and the person (except as provided in paragraph (5)) shall reply to the inquiry that no such juvenile record exists.

“(4) Civil actions.—

“(A) In general.—On and after the date on which a court orders the expungement of a juvenile record of a person under this section, if the person brings an action against a law enforcement agency that arrested, or participated in the arrest of, the person for the offense to which the record relates, or against the State or political subdivision of a State of which the law enforcement agency is an agency, in which the contents of the record are relevant to the reso-
olution of the issues presented in the action, there shall be a rebuttable presumption that the defendant has a complete defense to the action.

“(B) Showing by Plaintiff.—In an action described in subparagraph (A), the plaintiff may rebut the presumption of a complete defense by showing that the contents of the expunged record would not prevent the defendant from being held liable.

“(C) Duty to Testify as to Existence of Record.—The court in which an action described in subparagraph (A) is filed may require the plaintiff to state under oath whether the plaintiff had a juvenile record and whether the record was expunged.

“(D) Proof of Existence of Juvenile Record.—If the plaintiff in an action described in subparagraph (A) denies the existence of a juvenile record, the defendant may prove the existence of the record in any manner compatible with the applicable laws of evidence.

“(5) Criminal and Juvenile Proceedings.—On and after the date that is 1 year after the date on which a court orders the expungement of a juvenile record under this section,
a prosecutor may disclose underlying information from the juvenile record if the information—

“(A) is derived from a source other than the juvenile record; and

“(B) pertains to a potential witness in a Federal or State—

“(i) criminal proceeding; or

“(ii) juvenile delinquency proceeding.

“(6) Authorization for Person to Disclose Own Record.—A person who is the subject of a juvenile record expunged under this section may choose to disclose the record.

“(7) Treatment as Sealed Record During Transition Period.—During the 1-year period beginning on the date on which a court orders the expungement of a juvenile record under this section, paragraphs (3) and (4) of section 5043(c) shall apply with respect to the record as if the record had been sealed under that section.

“(d) Limitation Relating to Subsequent Incidents.—

“(1) After Filing and Before Petition Granted.—If, after the date on which a person files an expungement petition with respect to a juvenile offense and before the court determines whether to
grant the petition, the person is convicted of a
crime, adjudicated delinquent for an act of juvenile
delinquency, or engaged in active criminal court pro-
cedings or juvenile delinquency proceedings, the
court shall deny the petition.

“(2) AFTER PETITION GRANTED.—If, on or
after the date on which a court orders the
expungement of a juvenile record of a person under
subsection (b), the person is convicted of a crime,
adjudicated delinquent for an act of juvenile delin-
quency, or engaged in active criminal court pro-
cedings or juvenile delinquency proceedings—

“(A) the court that ordered the
expungement shall—

“(i) vacate the order; and

“(ii) notify the person who is the sub-
ject of the juvenile record, and each entity
or person described in subsection
(c)(2)(A), that the order has been vacated;
and

“(B) the record shall no longer be sealed.

“(e) INCLUSION OF STATE JUVENILE DELINQUENCY
ADJUDICATIONS AND PROCEEDINGS.—For purposes of
subparagraphs (A) and (B) of subsection (b)(1) and para-
graphs (1) and (2) of subsection (d), the term ‘juvenile
delinquency’ includes the violation of a law of a State com-
mited by a person before attaining the age of 18 which
would have been a crime if committed by an adult.’’.

(2) **TECHNICAL AND CONFORMING AMEND-
MENT.**—The table of sections for chapter 403 of
title 18, United States Code, is amended by adding
at the end the following:

‘‘5043. Sealing.
‘‘5044. Expungement.’’.

(3) **APPLICABILITY.**—Sections 5043 and 5044
of title 18, United States Code, as added by para-
graph (1), shall apply with respect to a juvenile non-
vviolent offense (as defined in section 5031 of such
title, as amended by subsection (b)) that is com-
mitted or alleged to have been committed before, on,
or after the date of enactment of this Act.

(e) **RULE OF CONSTRUCTION.**—Nothing in the
amendments made by this section shall be construed to
authorize the sealing or expungement of a record of a
criminal conviction of a juvenile who was proceeded
against as an adult in a district court of the United States.

**SEC. 212. JUVENILE SOLITARY CONFINEMENT.**

(a) **IN GENERAL.**—Chapter 403 of title 18, United
States Code, as amended by section 211, is amended by
adding at the end the following:
§ 5045. Juvenile solitary confinement

(a) DEFINITIONS.—In this section—

(1) the term ‘covered juvenile’ means—

(A) a juvenile who—

(i) is being proceeded against under this chapter for an alleged act of juvenile delinquency; or

(ii) has been adjudicated delinquent under this chapter; or

(B) a juvenile who is being proceeded against as an adult in a district court of the United States for an alleged criminal offense;

(2) the term ‘juvenile facility’ means any facility where covered juveniles are—

(A) committed pursuant to an adjudication of delinquency under this chapter; or

(B) detained prior to disposition or conviction; and

(3) the term ‘room confinement’ means the involuntary placement of a covered juvenile alone in a cell, room, or other area for any reason.

(b) PROHIBITION ON ROOM CONFINEMENT IN JUVENILE FACILITIES.—

(1) IN GENERAL.—The use of room confinement at a juvenile facility for discipline, punishment, retaliation, or any reason other than as a temporary
response to a covered juvenile’s behavior that poses
a serious and immediate risk of physical harm to
any individual, including the covered juvenile, is pro-
hibited.

“(2) JUVENILES POSING RISK OF HARM.—

“(A) REQUIREMENT TO USE LEAST RE-
STRICTIVE TECHNIQUES.—

“(i) IN GENERAL.—Before a staff
member of a juvenile facility places a cov-
ered juvenile in room confinement, the
staff member shall attempt to use less re-
strictive techniques, including—

“(I) talking with the covered ju-
venile in an attempt to de-escalate the
situation; and

“(II) permitting a qualified men-
tal health professional to talk to the
covered juvenile.

“(ii) EXPLANATION.—If, after at-
tempts to use less restrictive techniques
as required under clause (i), a staff mem-
ber of a juvenile facility decides to place a
covered juvenile in room confinement, the
staff member shall first—
“(I) explain to the covered juvenile the reasons for the room confinement; and

“(II) inform the covered juvenile that release from room confinement will occur—

“(aa) immediately when the covered juvenile regains self-control, as described in subparagraph (B)(i); or

“(bb) not later than after the expiration of the time period described in subclause (I) or (II) of subparagraph (B)(ii), as applicable.

“(B) MAXIMUM PERIOD OF CONFINEMENT.—If a covered juvenile is placed in room confinement because the covered juvenile poses a serious and immediate risk of physical harm to himself or herself, or to others, the covered juvenile shall be released—

“(i) immediately when the covered juvenile has sufficiently gained control so as to no longer engage in behavior that threatens serious and immediate risk of
physical harm to himself or herself, or to
others; or

“(ii) if a covered juvenile does not suf-
ficiently gain control as described in clause
(i), not later than—

“(I) 3 hours after being placed in
room confinement, in the case of a
covered juvenile who poses a serious
and immediate risk of physical harm
to others; or

“(II) 30 minutes after being
placed in room confinement, in the
case of a covered juvenile who poses a
serious and immediate risk of physical
harm only to himself or herself.

“(C) Risk of harm after maximum pe-
riod of confinement.—If, after the applica-
ble maximum period of confinement under sub-
clause (I) or (II) of subparagraph (B)(ii) has
expired, a covered juvenile continues to pose a
serious and immediate risk of physical harm de-
scribed in that subclause—

“(i) the covered juvenile shall be
transferred to another juvenile facility or
internal location where services can be pro-
vided to the covered juvenile without relying on room confinement; or

“(ii) if a qualified mental health professional believes the level of crisis service needed is not currently available, a staff member of the juvenile facility shall initiate a referral to a location that can meet the needs of the covered juvenile.

“(D) SPIRIT AND PURPOSE.—The use of consecutive periods of room confinement to evade the spirit and purpose of this subsection shall be prohibited.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—
The table of sections for chapter 403 of title 18, United States Code, as amended by section 211, is amended by adding at the end the following:

“5045. Juvenile solitary confinement.”.

SEC. 213. ENSURING ACCURACY OF FEDERAL CRIMINAL RECORDS.

(a) IN GENERAL.—Section 534 of title 28, United States Code, is amended by adding at the end the following:

“(g) ENSURING ACCURACY OF FEDERAL CRIMINAL RECORDS.—

“(1) DEFINITIONS.—In this subsection—
“(A) the term ‘applicant’ means the individual to whom a record sought to be exchanged pertains;

“(B) the term ‘incomplete’, with respect to a record, means the record—

“(i) indicates that an individual was arrested but does not describe the offense for which the individual was arrested; or

“(ii) indicates that an individual was arrested or criminal proceedings were instituted against an individual but does not include the final disposition of the arrest or of the proceedings if a final disposition has been reached;

“(C) the term ‘record’ means a record or other information collected under this section that relates to—

“(i) an arrest by a Federal law enforcement officer; or

“(ii) a Federal criminal proceeding;

“(D) the term ‘reporting jurisdiction’ means any person or entity that provides a record to the Attorney General under this section; and

“(E) the term ‘requesting entity’—
“(i) means a person or entity that seeks the exchange of a record for civil purposes that include employment, housing, credit, or any other type of application; and

“(ii) does not include a law enforcement or intelligence agency that seeks the exchange of a record for—

“(I) investigative purposes; or

“(II) purposes relating to law enforcement employment.

“(2) INCOMPLETE OR INACCURATE RECORDS.—
The Attorney General shall establish and enforce procedures to ensure the prompt release of accurate records exchanged for employment-related purposes through the records system created under this section.

“(3) REQUIRED PROCEDURES.—The procedures established under paragraph (2) shall include the following:

“(A) INACCURATE RECORD OR INFORMATION.—If the Attorney General determines that a record is inaccurate, the Attorney General shall promptly correct the record, including by making deletions to the record if appropriate.
“(B) INCOMPLETE RECORD.—

“(i) IN GENERAL.—If the Attorney General determines that a record is incomplete or cannot be verified, the Attorney General—

“(I) shall attempt to complete or verify the record; and

“(II) if unable to complete or verify the record, may promptly make any changes or deletions to the record.

“(ii) LACK OF DISPOSITION OF ARREST.—For purposes of this subparagraph, an incomplete record includes a record that indicates there was an arrest and does not include the disposition of the arrest.

“(iii) OBTAINING DISPOSITION OF ARREST.—If the Attorney General determines that a record is an incomplete record described in clause (ii), the Attorney General shall, not later than 10 days after the date on which the requesting entity requests the exchange and before the exchange is made,
obtain the disposition (if any) of the arrest.

“(C) Notification of Reporting Jurisdiction.—The Attorney General shall notify each appropriate reporting jurisdiction of any action taken under subparagraph (A) or (B).

“(D) Opportunity to Review Records by Applicant.—In connection with an exchange of a record under this section, the Attorney General shall—

“(i) notify the applicant that the applicant can obtain a copy of the record as described in clause (ii) if the applicant demonstrates a reasonable basis for the applicant’s review of the record;

“(ii) provide to the applicant an opportunity, upon request and in accordance with clause (i), to—

“(I) obtain a copy of the record;

and

“(II) challenge the accuracy and completeness of the record;

“(iii) promptly notify the requesting entity of any such challenge;
“(iv) not later than 30 days after the date on which the challenge is made, complete an investigation of the challenge;

“(v) provide to the applicant the specific findings and results of that investigation;

“(vi) promptly make any changes or deletions to the records required as a result of the challenge; and

“(vii) report those changes to the requesting entity.

“(E) CERTAIN EXCHANGES PROHIBITED.—

“(i) IN GENERAL.—An exchange shall not include any record—

“(I) except as provided in clause (ii), about an arrest more than 2 years old as of the date of the request for the exchange, that does not also include a disposition (if any) of that arrest;

“(II) relating to an adult or juvenile nonserious offense of the sort described in section 20.32(b) of title 28, Code of Federal Regulations, as in effect on July 1, 2009; or
“(III) to the extent the record is not clearly an arrest or a disposition of an arrest.

“(ii) Applicants for sensitive positions.—The prohibition under clause (i)(I) shall not apply in the case of a background check that relates to—

“(I) law enforcement employment; or

“(II) any position that a Federal agency designates as a—

“(aa) national security position; or

“(bb) high-risk, public trust position.

“(4) Fees.—The Attorney General may collect a reasonable fee for an exchange of records for employment-related purposes through the records system created under this section to defray the costs associated with exchanges for those purposes, including any costs associated with the investigation of inaccurate or incomplete records.”.

(b) Regulations on Reasonable Procedures.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall issue regulations to carry
out section 534(g) of title 28, United States Code, as added by subsection (a).

(c) REPORT.—

(1) DEFINITION.—In this subsection, the term “record” has the meaning given the term in subsection (g) of section 534 of title 28, United States Code, as added by subsection (a).

(2) REPORT REQUIRED.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of subsection (g) of section 534 of title 28, United States Code, as added by subsection (a), that includes—

(A) the number of exchanges of records for employment-related purposes made with entities in each State through the records system created under such section 534;

(B) any prolonged failure of a Federal agency to comply with a request by the Attorney General for information about dispositions of arrests; and

(C) the numbers of successful and unsuccessful challenges to the accuracy and complete-
142
1 ness of records, organized by the Federal agency from which each record originated.
2