

114TH CONGRESS  
1ST SESSION

# S. 2123

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

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## 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

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## A BILL

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

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

### 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 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(e) 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 provision 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. 210. Compassionate release initiative.
- 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** 3                    **FOR PRIOR DRUG FELONIES.**

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

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

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

1 “(58) The term ‘serious violent felony’ means—

2 “(A) an offense described in section  
3 3559(c)(2)(F) of title 18, United States Code,  
4 for which the offender served a term of impris-  
5 onment of more than 12 months; and

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

13 (2) in section 401(b)(1) (21 U.S.C.  
14 841(b)(1))—

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

17 (i) by striking “If any person commits  
18 such a violation after a prior conviction for  
19 a felony drug offense has become final,  
20 such person shall be sentenced to a term of  
21 imprisonment which may not be less than  
22 20 years” and inserting the following: “If  
23 any person commits such a violation after  
24 a prior conviction for a serious drug felony  
25 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 imprisonment without release” and inserting the following: “after 2 or more prior convictions for a serious drug felony or serious violent felony have become final, such person shall be sentenced to a term of imprisonment of not less than 25 years”; and

(B) in subparagraph (B), in the flush text following clause (viii), by striking “If any person commits such a violation after a prior conviction for a felony drug offense has become final” 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”.

(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           (1) in paragraph (1), in the flush text following  
 2           subparagraph (H), by striking “If any person com-  
 3           mits such a violation after a prior conviction for a  
 4           felony drug offense has become final, such person  
 5           shall be sentenced to a term of imprisonment of not  
 6           less than 20 years” and inserting “If any person  
 7           commits such a violation after a prior conviction for  
 8           a serious drug felony or serious violent felony has  
 9           become final, such person shall be sentenced to a  
 10          term of imprisonment of not less than 15 years”;  
 11          and

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

16          (c) APPLICABILITY TO PENDING AND PAST CASES.—

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

22           (2) PAST CASES.—In the case of a defendant  
 23           who, before the date of enactment of this Act, was  
 24           convicted of an offense for which the penalty is  
 25           amended by this section and was sentenced to a

1 term of imprisonment for the offense, the sentencing  
 2 court may, on motion of the defendant or the Direc-  
 3 tor of the Bureau of Prisons, or on its own motion,  
 4 upon prior notice to the Government, reduce the  
 5 term of imprisonment for the offense, after consid-  
 6 ering the factors set forth in section 3553(a) of title  
 7 18, United States Code, the nature and seriousness  
 8 of the danger to any person or the community, and  
 9 the post-sentencing conduct of the defendant, if such  
 10 a reduction is consistent with this section and the  
 11 amendments made by this section.

12 **SEC. 102. BROADENING OF EXISTING SAFETY VALVE.**

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

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

17 “(1) the defendant does not have—

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

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

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

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

1 “(g) INADEQUACY OF CRIMINAL HISTORY.—

2 “(1) IN GENERAL.—If subsection (f) does not  
 3 apply to a defendant because the defendant does not  
 4 meet the requirements described in subsection (f)(1)  
 5 (relating to criminal history), the court may, upon  
 6 prior notice to the Government, waive subsection  
 7 (f)(1) if the court specifies in writing the specific  
 8 reasons why reliable information indicates that ex-  
 9 cluding the defendant pursuant to subsection (f)(1)  
 10 substantially overrepresents the seriousness of the  
 11 defendant’s criminal history or the likelihood that  
 12 the defendant will commit other crimes.

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

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

20 “(1) the term ‘drug trafficking offense’ means  
 21 an offense that is punishable by imprisonment under  
 22 any law of the United States, or of a State or for-  
 23 eign country, that prohibits or restricts the importa-  
 24 tion, manufacture, or distribution of controlled sub-

1 stances or the possession of controlled substances  
 2 with intent to distribute; and

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

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

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

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

14 “(i) LIMITATION ON APPLICABILITY OF CERTAIN  
 15 STATUTORY MINIMUMS.—Notwithstanding any other pro-  
 16 vision of law, in the case of a conviction under section 401  
 17 or 406 of the Controlled Substances Act (21 U.S.C. 841  
 18 and 846) or section 1010 or 1013 of the Controlled Sub-  
 19 stances Import and Export Act (21 U.S.C. 960 and 963)  
 20 for which the statutory minimum term of imprisonment  
 21 is 10 years, the court may impose a sentence as if the  
 22 statutory minimum term of imprisonment was 5 years, if  
 23 the court finds at sentencing, after the Government has  
 24 been afforded the opportunity to make a recommendation,  
 25 that—



1           “(1) the defendant does not have a prior convic-  
2           tion for a serious drug felony or serious violent fel-  
3           ony as defined in paragraphs (57) and (58), respec-  
4           tively, of section 102 of the Controlled Substances  
5           Act (21 U.S.C. 802) that was made final prior to  
6           the commission of the instant offense;

7           “(2) the defendant did not use violence or cred-  
8           ible threats of violence or possess a firearm or other  
9           dangerous weapon (or induce another participant to  
10          do so) in connection with the offense, and the of-  
11          fense did not result in death or serious bodily injury  
12          to any person;

13          “(3) the defendant did not play an enhanced  
14          role in the offense by acting as an organizer, leader,  
15          manager, or supervisor of other participants in the  
16          offense, as determined under the sentencing guide-  
17          lines, or by exercising substantial authority or con-  
18          trol over the criminal activity of a criminal organiza-  
19          tion, regardless of whether the defendant was a  
20          member of such organization;

21          “(4) the defendant did not act as an importer,  
22          exporter, high-level distributor or supplier, whole-  
23          saler, or manufacturer of the controlled substances  
24          involved in the offense or engage in a continuing

1 criminal enterprise, as defined in section 408 of the  
2 Controlled Substances Act (21 U.S.C. 848);

3 “(5) the defendant did not distribute a con-  
4 trolled substance to or with a person under 18 years  
5 of age; and

6 “(6) not later than the time of the sentencing  
7 hearing, the defendant has truthfully provided to the  
8 Government all information and evidence the defend-  
9 ant has concerning the offense or offenses that were  
10 part of the same course of conduct or of a common  
11 scheme or plan, but the fact that the defendant has  
12 no relevant or useful other information to provide or  
13 that the Government is already aware of the infor-  
14 mation shall not preclude a determination by the  
15 court that the defendant has complied with this re-  
16 quirement.

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

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

21 “(A) means a defendant who imported, ex-  
22 ported, or otherwise distributed or supplied  
23 large quantities of a controlled substance to  
24 other drug distributors; and

“(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

8                   “(3) the term ‘wholesaler’ means a defendant  
9                   who sold non-retail quantities of a controlled sub-  
10                  stance 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.

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

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

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1           (2) in clause (i), by striking “not less than 25  
2       years” and inserting “not less than 15 years”.

3       (b) APPLICABILITY TO PENDING AND PAST CASES.—

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

9           (2) PAST CASES.—In the case of a defendant  
10      who, before the date of enactment of this Act, was  
11      convicted of an offense for which the penalty is  
12      amended by this section and was sentenced to a  
13      term of imprisonment for the offense, the sentencing  
14      court may, on motion of the defendant or the Direc-  
15      tor of the Bureau of Prisons, or on its own motion,  
16      upon prior notice to the Government, reduce the  
17      term of imprisonment for the offense, after consid-  
18      ering the factors set forth in section 3553(a) of title  
19      18, United States Code, the nature and seriousness  
20      of the danger to any person or the community, and  
21      the post-sentencing conduct of the defendant, if such  
22      a reduction is consistent with this section and the  
23      amendments made by this section.

1 **SEC. 105. AMENDMENT TO CERTAIN PENALTIES FOR CER-**  
 2 **TAIN FIREARM OFFENSES AND ARMED CA-**  
 3 **REER CRIMINAL PROVISION.**

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

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

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

12 (b) APPLICABILITY TO PENDING AND PAST CASES.—

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

18 (2) PAST CASES.—In the case of a defendant  
 19 who, before the date of enactment of this Act, was  
 20 convicted of an offense for which the penalty is  
 21 amended by this section and was sentenced to a  
 22 term of imprisonment for the offense, the sentencing  
 23 court may, on motion of the defendant or the Direc-  
 24 tor of the Bureau of Prisons, or on its own motion,  
 25 upon prior notice to the Government, reduce the  
 26 term of imprisonment for the offense, after consid-

1        ering the factors set forth in section 3553(a) of title  
2        18, United States Code, the nature and seriousness  
3        of the danger to any person or the community, and  
4        the post-sentencing conduct of the defendant, if such  
5        a reduction is consistent with this section and the  
6        amendments made by this section.

7        **SEC. 106. APPLICATION OF FAIR SENTENCING ACT.**

8        (a) DEFINITION OF COVERED OFFENSE.—In this  
9        section, the term “covered offense” means a violation of  
10       a Federal criminal statute, the statutory penalties for  
11       which were modified by section 2 or 3 of the Fair Sen-  
12       tencing Act of 2010 (Public Law 111–220; 124 Stat.  
13       2372), that was committed before August 3, 2010.

14       (b) DEFENDANTS PREVIOUSLY SENTENCED.—A  
15       court that imposed a sentence for a covered offense, may,  
16       on motion of the defendant, the Director of the Bureau  
17       of Prisons, the attorney for the Government, or the court,  
18       impose a reduced sentence as if sections 2 and 3 of the  
19       Fair Sentencing Act of 2010 (Public Law 111–220; 124  
20       Stat. 2372) were in effect at the time the covered offense  
21       was committed.

22       (c) LIMITATIONS.—No court shall entertain a motion  
23       made under this section to reduce a sentence if the sen-  
24       tence was previously imposed or previously reduced in ac-  
25       cordance with the amendments made by sections 2 and

1 3 of the Fair Sentencing Act of 2010 (Public Law 111–  
 2 220; 124 Stat. 2372) or if a motion made under this sec-  
 3 tion to reduce the sentence was previously denied. Nothing  
 4 in this section shall be construed to require a court to re-  
 5 duce any sentence pursuant to this section.

6 **SEC. 107. MANDATORY MINIMUM SENTENCES FOR DOMES-**  
 7 **TIC VIOLENCE OFFENSES.**

8 Section 2261(b) of title 18, United States Code, is  
 9 amended by striking paragraphs (1), (2), and (3) and in-  
 10 serting the following:

11 “(1) if death of the victim results—

12 “(A) in the case of a violation of this sec-  
 13 tion, for any term of years not less than 10 or  
 14 for life; and

15 “(B) in the case of a violation of section  
 16 2261A, for life or any term of years;

17 “(2) if permanent disfigurement or life threat-  
 18 ening bodily injury to the victim results—

19 “(A) in the case of a violation of this sec-  
 20 tion, for not more than 25 years; and

21 “(B) in the case of a violation of section  
 22 2261A, for not more than 20 years;

23 “(3) if serious bodily injury to the victim results  
 24 or if the offender uses a dangerous weapon during  
 25 the offense—

1           “(A) in the case of a violation of this sec-  
2           tion, for not more than 15 years; and

3           “(B) in the case of a violation of section  
4           2261A, for not more than 10 years;”.

5 **SEC. 108. MINIMUM TERM OF IMPRISONMENT FOR CER-**  
6 **TAIN ACTS RELATING TO THE PROVISION OF**  
7 **CONTROLLED GOODS OR SERVICES TO TER-**  
8 **RORISTS OR PROLIFERATORS OF WEAPONS**  
9 **OF MASS DESTRUCTION.**

10       Section 206 of the International Emergency Eco-  
11       nomic Powers Act (50 U.S.C. 1705) is amended—

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

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

16       “(d) MINIMUM TERM OF IMPRISONMENT FOR CER-  
17       TAIN ACTS RELATING TO THE PROVISION OF CON-  
18       TROLLED GOODS OR SERVICES TO TERRORISTS OR  
19       PROLIFERATORS OF WEAPONS OF MASS DESTRUC-  
20       TION.—

21           “(1) IN GENERAL.—A person who willfully com-  
22       mits, willfully attempts to commit, or willfully con-  
23       spires to commit, solicits the commission of, or aids  
24       or abets in the commission of, an unlawful act de-  
25       scribed in paragraph (2) shall, upon conviction, be



1 imprisoned for a term of not less than 5 years. Not-  
2 withstanding any other provision of law, a court  
3 shall not place on probation any person sentenced  
4 under this subsection.

5 “(2) UNLAWFUL ACTS DESCRIBED.—An unlaw-  
6 ful act described in this paragraph is an unlawful  
7 act described in subsection (a) that involves—

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

10 “(i) a state sponsor of terrorism;

11 “(ii) an organization designated as a  
12 foreign terrorist organization under section  
13 219(a) of the Immigration and Nationality  
14 Act (8 U.S.C. 1189(a)); or

15 “(iii) a person on the list of specially  
16 designated nationals and blocked persons  
17 maintained by the Office of Foreign Assets  
18 Control of the Department of the Treas-  
19 ury;

20 “(B) the provision of goods or services,  
21 without a license or other written approval of  
22 the United States Government, to any person in  
23 connection with a program or effort of a foreign  
24 country or foreign person to develop weapons of  
25 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—

1 “(i) an embargo or prohibition exists  
2 on the export of defense articles or defense  
3 services; or

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

8 “(C) DEFENSE ARTICLE; DEFENSE SERV-  
9 ICE.—The terms ‘defense article’ and ‘defense  
10 service’ have the meanings given those terms in  
11 section 47 of the Arms Export Control Act (22  
12 U.S.C. 2794).

13 “(D) STATE SPONSOR OF TERRORISM.—  
14 The term ‘state sponsor of terrorism’ means  
15 any foreign country, or political subdivision,  
16 agency, or instrumentality of a foreign country,  
17 if the Secretary of State has determined that  
18 the government of the country has repeatedly  
19 provided support for acts of international ter-  
20 rorism pursuant to—

21 “(i) section 6(j)(1)(A) of the Export  
22 Administration Act of 1979 (50 U.S.C.  
23 App. 2405(j)(1)(A)) (as in effect pursuant  
24 to this Act);

1 “(ii) section 40(d) of the Arms Export  
2 Control Act (22 U.S.C. 2780(d));

3 “(iii) section 620A(a) of the Foreign  
4 Assistance Act of 1961 (22 U.S.C.  
5 2371(a)); or

6 “(iv) any other provision of law.

7 “(E) WEAPON OF MASS DESTRUCTION.—

8 The term ‘weapon of mass destruction’ has the  
9 meaning given that term in section 2332a of  
10 title 18, United States Code.”.

11 **SEC. 109. INVENTORY OF FEDERAL CRIMINAL OFFENSES.**

12 (a) DEFINITIONS.—In this section—

13 (1) the term “criminal regulatory offense”  
14 means a Federal regulation that is enforceable by a  
15 criminal penalty; and

16 (2) the term “criminal statutory offense”  
17 means a criminal offense under a Federal statute.

18 (b) REPORT ON CRIMINAL STATUTORY OFFENSES.—

19 Not later than 1 year after the date of enactment of this  
20 Act, the Attorney General shall submit to the Committee  
21 on the Judiciary of the Senate and the Committee on the  
22 Judiciary of the House of Representatives a report, which  
23 shall include—

1           (1) a list of all criminal statutory offenses, in-  
 2           cluding a list of the elements for each criminal stat-  
 3           utory offense; and

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

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

8                 (B) the number of prosecutions for the  
 9                 criminal statutory offense brought by the De-  
 10                partment of Justice each year for the 15-year  
 11                period preceding the date of enactment of this  
 12                Act; and

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

15       (c) REPORT ON CRIMINAL REGULATORY OF-  
 16 FENSES.—

17           (1) REPORTS.—Not later than 1 year after the  
 18           date of enactment of this Act, the head of each Fed-  
 19           eral agency described in paragraph (2) shall submit  
 20           to the Committee on the Judiciary of the Senate and  
 21           the Committee on the Judiciary of the House of  
 22           Representatives a report, which shall include—

23                 (A) a list of all criminal regulatory of-  
 24                 fenses 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

1 States, the Farm Credit Administration, the Federal  
 2 Communications Commission, the Federal Deposit  
 3 Insurance Corporation, the Federal Election Com-  
 4 mission, the Federal Labor Relations Authority, the  
 5 Federal Maritime Commission, the Federal Mine  
 6 Safety and Health Review Commission, the Federal  
 7 Trade Commission, the National Labor Relations  
 8 Board, the National Transportation Safety Board,  
 9 the Nuclear Regulatory Commission, the Occupa-  
 10 tional Safety and Health Review Commission, the  
 11 Office of Compliance, the Postal Regulatory Com-  
 12 mission, the Securities and Exchange Commission,  
 13 the Securities Investor Protection Corporation, the  
 14 Environmental Protection Agency, the Small Busi-  
 15 ness Administration, the Federal Housing Finance  
 16 Agency, and the Office of Government Ethics.

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

19 (1) the Attorney General shall establish a pub-  
 20 lically accessible index of each criminal statutory of-  
 21 fense listed in the report required under subsection  
 22 (b) and make the index available and freely acces-  
 23 sible on the website of the Department of Justice;  
 24 and

1           (2) the head of each agency described in sub-  
 2           section (c)(2) shall establish a publically accessible  
 3           index of each criminal regulatory offense listed in  
 4           the report required under subsection (c)(1) and  
 5           make the index available and freely accessible on the  
 6           website of the agency.

7           (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
 8           tion shall be construed to require or authorize appropria-  
 9           tions.

## 10       **TITLE II—CORRECTIONS ACT**

### 11       **SEC. 201. SHORT TITLE.**

12           This title may be cited as the “Corrections Oversight,  
 13           Recidivism Reduction, and Eliminating Costs for Tax-  
 14           payers In Our National System Act of 2015” or the  
 15           “CORRECTIONS Act”.

### 16       **SEC. 202. RECIDIVISM REDUCTION PROGRAMMING AND** 17           **PRODUCTIVE ACTIVITIES.**

18           (a) IN GENERAL.—Not later than 1 year after the  
 19           date of enactment of this Act, the Attorney General  
 20           shall—

21           (1) conduct a review of recidivism reduction  
 22           programming and productive activities, including  
 23           prison jobs, offered in correctional institutions, in-  
 24           cluding programming and activities offered in State



1 correctional institutions, which shall include a review  
2 of research on the effectiveness of such programs;

3 (2) conduct a survey to identify products, in-  
4 cluding products purchased by Federal agencies,  
5 that are currently manufactured overseas and could  
6 be manufactured by prisoners participating in a  
7 prison work program without reducing job opportu-  
8 nities for other workers in the United States; and

9 (3) submit to the Committee on the Judiciary  
10 and the Committee on Appropriations of the Senate  
11 and the Committee on the Judiciary and the Com-  
12 mittee on Appropriations of the House of Represent-  
13 atives a strategic plan for the expansion of recidi-  
14 vism reduction programming and productive activi-  
15 ties, including prison jobs, in Bureau of Prisons fa-  
16 cilities required by section 3621(h)(1) of title 18,  
17 United States Code, as added by subsection (b).

18 (b) AMENDMENT.—Section 3621 of title 18, United  
19 States Code, is amended by adding at the end the fol-  
20 lowing:

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

23 “(1) IN GENERAL.—The Director of the Bureau  
24 of Prisons, shall, subject to the availability of appro-  
25 priations, make available to all eligible prisoners ap-

1       appropriate recidivism reduction programming or pro-  
2       ductive activities, including prison jobs, in accord-  
3       ance with paragraph (2).

4               “(2) EXPANSION PERIOD.—

5               “(A) IN GENERAL.—In carrying out this  
6       subsection, the Director of the Bureau of Pris-  
7       ons shall have 6 years beginning on the date of  
8       enactment of this subsection to ensure appro-  
9       priate recidivism reduction programming and  
10      productive activities, including prison jobs, are  
11      available for all eligible prisoners.

12              “(B) CERTIFICATION.—

13              “(i) IN GENERAL.—The National In-  
14      stitute of Corrections shall evaluate all re-  
15      cidivism reduction programming or produc-  
16      tive activities that are made available to el-  
17      igible prisoners and determine whether  
18      such programming or activities may be cer-  
19      tified as evidence-based and effective at re-  
20      ducing or mitigating offender risk and re-  
21      cidivism.

22              “(ii) CONSIDERATIONS.—In deter-  
23      mining whether or not to issue a certifi-  
24      cation under clause (i), the National Insti-  
25      tute of Corrections shall consult with inter-

1           nal or external program evaluation experts,  
2           including the Office of Management and  
3           Budget and the Comptroller General of the  
4           United States to identify appropriate eval-  
5           uation methodologies for each type of pro-  
6           gram offered, and may use analyses of  
7           similar programs conducted in other cor-  
8           rectional settings.

9           “(3) RECIDIVISM REDUCTION PARTNERSHIPS.—

10          Not later than 18 months after the date of enact-  
11          ment of this subsection, the Attorney General shall  
12          issue regulations requiring the official in charge of  
13          each correctional facility to ensure, subject to the  
14          availability of appropriations, that appropriate re-  
15          cidivism reduction programming and productive ac-  
16          tivities, including prison jobs, are available for all el-  
17          igible prisoners within the time period specified in  
18          paragraph (2), by entering into partnerships with  
19          the following:

20               “(A) Nonprofit and other private organiza-  
21               tions, including faith-based and community-  
22               based organizations, that provide recidivism re-  
23               duction programming, on a paid or volunteer  
24               basis.

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

4           “(C) Private entities that will, on a volun-  
 5           teer basis—

6                   “(i) deliver occupational and voca-  
 7                   tional training and certifications in Bureau  
 8                   of Prisons facilities;

9                   “(ii) provide equipment to facilitate  
 10                  occupational and vocational training or em-  
 11                  ployment opportunities for prisoners;

12                  “(iii) employ prisoners; or

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

16           “(D) Industry-sponsored organizations  
 17           that deliver workforce development and training  
 18           that lead to recognized certification and employ-  
 19           ment.

20           “(4) ASSIGNMENTS.—In assigning prisoners to  
 21           recidivism reduction programming and productive  
 22           activities, the Director of the Bureau of Prisons  
 23           shall use the Post-Sentencing Risk and Needs As-  
 24           sessment System described in section 3621A and  
 25           shall ensure that—

1           “(A) to the extent practicable, prisoners  
2           are separated from prisoners of other risk clas-  
3           sifications in accordance with best practices for  
4           effective recidivism reduction;

5           “(B) a prisoner who has been classified as  
6           low risk and without need for recidivism reduc-  
7           tion programming shall participate in and suc-  
8           cessfully complete productive activities, includ-  
9           ing prison jobs, in order to maintain a low-risk  
10          classification;

11          “(C) a prisoner who has successfully com-  
12          pleted all recidivism reduction programming to  
13          which the prisoner was assigned shall partici-  
14          pate in productive activities, including a prison  
15          job; and

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

22          “(5) MENTORING SERVICES.—Any person who  
23          provided mentoring services to a prisoner while the  
24          prisoner was in a penal or correctional facility of the  
25          Bureau of Prisons shall be permitted to continue

1 such services after the prisoner has been transferred  
2 into prerelease custody, unless the person in charge  
3 of the penal or correctional facility of the Bureau of  
4 Prisons demonstrates, in a written document sub-  
5 mitted to the person, that such services would be a  
6 significant security risk to the prisoner, persons who  
7 provide such services, or any other person.

8 “(6) RECIDIVISM REDUCTION PROGRAM INCEN-  
9 TIVES AND REWARDS.—Prisoners who have success-  
10 fully completed recidivism reduction programs and  
11 productive activities shall be eligible for the fol-  
12 lowing:

13 “(A) TIME CREDITS.—

14 “(i) IN GENERAL.—Subject to clauses  
15 (ii) and (iii), a prisoner who has success-  
16 fully completed a recidivism reduction pro-  
17 gram or productive activity that has been  
18 certified under paragraph (2)(B) shall re-  
19 ceive time credits of 5 days for each period  
20 of 30 days of successful completion of such  
21 program or activity. A prisoner who is  
22 classified as low risk shall receive addi-  
23 tional time credits of 5 days for each pe-  
24 riod of 30 days of successful completion of  
25 such program or activity.

1           “(ii) AVAILABILITY.—A prisoner may  
2 not receive time credits under this sub-  
3 paragraph for successfully completing a re-  
4 cidivism reduction program or productive  
5 activity—

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

8                   “(II) during official detention be-  
9 fore the date on which the prisoner’s  
10 sentence commences under section  
11 3585(a).

12           “(iii) EXCLUSIONS.—No credit shall  
13 be awarded under this subparagraph to a  
14 prisoner serving a sentence for a second or  
15 subsequent conviction for a Federal offense  
16 imposed after the date on which the pris-  
17 oner’s first such conviction became final,  
18 which shall not include any offense under  
19 section 1152 or section 1153 for which the  
20 prisoner was sentenced to less than 13  
21 months. No credit shall be awarded under  
22 this subparagraph to a prisoner with 13 or  
23 more criminal history points, as deter-  
24 mined under the sentencing guidelines, at  
25 the time of sentencing, unless the court de-

1 termines in writing at sentencing that the  
2 defendant's criminal history category sub-  
3 stantially overrepresents the seriousness of  
4 the defendant's criminal history or the  
5 likelihood that the defendant will commit  
6 other crimes. No credit shall be awarded  
7 under this subparagraph to any prisoner  
8 serving a sentence of imprisonment for  
9 conviction for any of the following offenses:

10 “(I) A Federal crime of ter-  
11 rorism, as defined under section  
12 2332b(g)(5).

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

15 “(III) A Federal sex offense, as  
16 described in section 111 of the Sex  
17 Offender Registration and Notifica-  
18 tion Act (42 U.S.C. 16911).

19 “(IV) Engaging in a continuing  
20 criminal enterprise, as defined in sec-  
21 tion 408 of the Controlled Substances  
22 Act (21 U.S.C. 848).

23 “(V) A Federal fraud offense for  
24 which the prisoner received a sentence



1 of imprisonment of more than 15  
2 years.

3 “(VI) A Federal crime involving  
4 child exploitation, as defined in sec-  
5 tion 2 of the PROTECT Our Children  
6 Act of 2008 (42 U.S.C. 17601).

7 “(VII) A violation of—

8 “(aa) chapter 11 (relating to  
9 bribery, graft, and conflicts of in-  
10 terest);

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

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

15 “(dd) chapter 63 involving a  
16 scheme or artifice to deprive an-  
17 other of the intangible right of  
18 honest services;

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

21 “(ff) chapter 95 or 96 (re-  
22 lating to racketeering and rack-  
23 eteer influenced and corrupt or-  
24 ganizations); or

1 “(gg) chapter 110 (relating  
2 to sexual exploitation and other  
3 abuse of children).

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

13 “(B) OTHER INCENTIVES.—The Bureau of  
14 Prisons shall develop policies to provide appro-  
15 priate incentives for successful completion of re-  
16 cidivism reduction programming and productive  
17 activities, other than time credit pursuant to  
18 subparagraph (A), including incentives for pris-  
19 oners who are precluded from earning credit  
20 under subparagraph (A)(iii). Such incentives  
21 may include additional telephone or visitation  
22 privileges for use with family, close friends,  
23 mentors, and religious leaders.

24 “(C) PENALTIES.—The Bureau of Prisons  
25 may reduce rewards a prisoner has previously

1           earned under subparagraph (A) for prisoners  
2           who violate the rules of the penal or correc-  
3           tional facility in which the prisoner is impris-  
4           oned, a recidivism reduction program, or a pro-  
5           ductive activity.

6           “(D) RELATION TO OTHER INCENTIVE  
7           PROGRAMS.—The incentives described in this  
8           paragraph shall be in addition to any other re-  
9           wards or incentives for which a prisoner may be  
10          eligible, except that a prisoner shall not be eligi-  
11          ble for the time credits described in subpara-  
12          graph (A) if the prisoner has accrued time cred-  
13          its under another provision of law based solely  
14          upon participation in, or successful completion  
15          of, such program.

16          “(7) SUCCESSFUL COMPLETION.—For purposes  
17          of this subsection, a prisoner—

18               “(A) shall be considered to have success-  
19               fully completed a recidivism reduction program  
20               or productive activity, if the Bureau of Prisons  
21               determines that the prisoner—

22                   “(i) regularly attended and partici-  
23                   pated in the recidivism reduction program  
24                   or productive activity;

1 “(ii) regularly completed assignments  
2 or tasks in a manner that allowed the pris-  
3 oner to realize the criminogenic benefits of  
4 the recidivism reduction program or pro-  
5 ductive activity;

6 “(iii) did not regularly engage in dis-  
7 ruptive behavior that seriously undermined  
8 the administration of the recidivism reduc-  
9 tion program or productive activity; and

10 “(iv) satisfied the requirements of  
11 clauses (i) through (iii) for a time period  
12 that is not less than 30 days and allowed  
13 the prisoner to realize the criminogenic  
14 benefits of the recidivism reduction pro-  
15 gram or productive activity; and

16 “(B) for purposes of paragraph (6)(A),  
17 may be given credit for successful completion of  
18 a recidivism reduction program or productive  
19 activity for the time period during which the  
20 prisoner participated in such program or activ-  
21 ity if the prisoner satisfied the requirements of  
22 subparagraph (A) during such time period, not-  
23 withstanding that the prisoner continues to par-  
24 ticipate in such program or activity.

25 “(8) DEFINITIONS.—In this subsection:

1           “(A) ELIGIBLE PRISONER.—For purposes  
2 of this subsection, the term ‘eligible prisoner’—

3           “(i) means a prisoner serving a sen-  
4 tence of incarceration for conviction of a  
5 Federal offense; and

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

8           “(I) is medically unable to suc-  
9 cessfully complete recidivism reduction  
10 programming or productive activities;

11           “(II) would present a security  
12 risk if permitted to participate in re-  
13 cidivism reduction programming; or

14           “(III) is serving a sentence of in-  
15 carceration of less than 1 month.

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

18           “(i) means a group or individual ac-  
19 tivity, including holding a job as part of a  
20 prison work program, that is designed to  
21 allow prisoners classified as having a lower  
22 risk of recidivism to maintain such classi-  
23 fication, when offered to such prisoners;  
24 and

1                   “(ii) may include the delivery of the  
 2                   activities described in subparagraph  
 3                   (C)(i)(II) to other prisoners.

4                   “(C) RECIDIVISM REDUCTION PROGRAM.—  
 5                   The term ‘recidivism reduction program’  
 6                   means—

7                   “(i) a group or individual activity  
 8                   that—

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

12                  “(II) may include—

13                       “(aa) classes on social learn-  
 14                       ing and life skills;

15                       “(bb) classes on morals or  
 16                       ethics;

17                       “(cc) academic classes;

18                       “(dd) cognitive behavioral  
 19                       treatment;

20                       “(ee) mentoring;

21                       “(ff) occupational and voca-  
 22                       tional training;

23                       “(gg) faith-based classes or  
 24                       services;

1 “(hh) domestic violence edu-  
 2 cation and deterrence program-  
 3 ming;

4 “(ii) victim-impact classes or  
 5 other restorative justice pro-  
 6 grams;

7 “(jj) industry-sponsored  
 8 workforce development, edu-  
 9 cation, or training; and

10 “(kk) a prison job; and

11 “(ii) shall include—

12 “(I) a productive activity; and

13 “(II) recovery programming.

14 “(D) RECOVERY PROGRAMMING.—The  
 15 term ‘recovery programming’ means a course of  
 16 instruction or activities, other than a course de-  
 17 scribed in subsection (e), that has been dem-  
 18 onstrated to reduce drug or alcohol abuse or de-  
 19 pendence among participants, or to promote re-  
 20 covery among individuals who have previously  
 21 abused alcohol or drugs, to include appropriate  
 22 medication-assisted treatment.”.

23 (c) NO CONSIDERATION OF EARNED TIME CREDIT  
 24 ELIGIBILITY DURING SENTENCING.—

1           (1) IN GENERAL.—Section 3553 of title 18,  
2       United States Code, as amended by sections 102  
3       and 103 of this Act, is amended—

4           (A) by redesignating subsections (b)  
5       through (j) as subsections (c) through (k), re-  
6       spectively;

7           (B) in subsection (e)(3), as so redesign-  
8       ated, by striking “subsection (c)” and insert-  
9       ing “subsection (d)”; and

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

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

16          (2) TECHNICAL AND CONFORMING AMEND-  
17       MENTS.—Section 3742 of title 18, United States  
18       Code, is amended—

19          (A) in subsection (e)(3)—

20               (i) in subparagraph (A), by striking  
21       “section 3553(c)” and inserting “section  
22       3553(d)”;

23               (ii) in subparagraph (B)(ii), by strik-  
24       ing “section 3553(b)” and inserting “sec-  
25       tion 3553(c)”;



1 (iii) in subparagraph (C), by striking  
 2 “section 3553(c)” and inserting “section  
 3 3553(d)”;

4 (B) in subsection (g)(2), by striking “sec-  
 5 tion 3553(c)” and inserting “section 3553(d)”;  
 6 and

7 (C) in subsection (j)(1)(B), by striking  
 8 “section 3553(b)” and inserting “section  
 9 3553(c)”.

10 **SEC. 203. POST-SENTENCING RISK AND NEEDS ASSESS-**  
 11 **MENT SYSTEM.**

12 (a) IN GENERAL.—Subchapter C of chapter 229 of  
 13 title 18, United States Code, is amended by inserting after  
 14 section 3621 the following:

15 **“§ 3621A. Post-sentencing risk and needs assessment**  
 16 **system**

17 “(a) IN GENERAL.—Not later than 30 months after  
 18 the date of the enactment of this section, the Attorney  
 19 General shall develop for use by the Bureau of Prisons  
 20 an offender risk and needs assessment system, to be  
 21 known as the ‘Post-Sentencing Risk and Needs Assess-  
 22 ment System’ or the ‘Assessment System’, which shall—  
 23 “(1) assess and determine the recidivism risk  
 24 level of all prisoners and classify each prisoner as  
 25 having a low, moderate, or high risk of recidivism;

1           “(2) to the extent practicable, assess and deter-  
2       mine the risk of violence of all prisoners;

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

6           “(4) assign each prisoner to appropriate recidi-  
7       vism reduction programs or productive activities  
8       based on the prisoner’s risk level and the specific  
9       criminogenic needs of the prisoner, and in accord-  
10      ance with section 3621(h)(4);

11          “(5) reassess and update the recidivism risk  
12      level and programmatic needs of each prisoner pur-  
13      suant to the schedule set forth in subsection (c)(2),  
14      and assess changes in the prisoner’s recidivism risk  
15      within a particular risk level; and

16          “(6) provide information on best practices con-  
17      cerning the tailoring of recidivism reduction pro-  
18      grams to the specific criminogenic needs of each  
19      prisoner so as to effectively lower the prisoner’s risk  
20      of recidivating.

21      “(b) DEVELOPMENT OF SYSTEM.—

22          “(1) IN GENERAL.—In designing the Assess-  
23      ment System, the Attorney General shall—

1           “(A) use available research and best prac-  
2           tices in the field and consult with academic and  
3           other criminal justice experts as appropriate;

4           “(B) ensure that the Assessment System  
5           measures indicators of progress and improve-  
6           ment, and of regression, including newly ac-  
7           quired skills, attitude, and behavior changes  
8           over time, through meaningful consideration of  
9           dynamic risk factors, such that—

10           “(i) all prisoners at each risk level  
11           other than low risk have a meaningful op-  
12           portunity to progress to a lower risk classi-  
13           fication during the period of the incarceration  
14           of the prisoner through changes in  
15           dynamic risk factors; and

16           “(ii) all prisoners on prerelease cus-  
17           tody, other than prisoners classified as low  
18           risk, have a meaningful opportunity to  
19           progress to a lower risk classification dur-  
20           ing such custody through changes in dy-  
21           namic risk factors;

22           “(C) ensure that the Assessment System is  
23           adjusted on a regular basis, but not less fre-  
24           quently than every 3 years, to take account of

1 the best statistical evidence of effectiveness in  
2 reducing recidivism rates; and

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

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

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

15 “(2) RISK AND NEEDS ASSESSMENT TOOLS.—

16 In carrying out this subsection, the Attorney Gen-  
17 eral shall—

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

23 “(B) develop a suitable reassessment tool  
24 to perform the reassessments and updates de-  
25 scribed in subsection (a)(4); and

1           “(C) develop a suitable tool to assess the  
2           recidivism risk level of prisoners in prerelease  
3           custody.

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

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

15          “(5) VALIDATION.—In carrying out this sub-  
16          section, the Attorney General shall statistically vali-  
17          date the risk and needs assessment tools on the Fed-  
18          eral prison population, or ensure that the tools have  
19          been so validated. To the extent such validation can-  
20          not be completed with the time period specified in  
21          subsection (a), the Attorney General shall ensure  
22          that such validation is completed as soon as is prac-  
23          ticable.

24          “(6) RELATIONSHIP WITH EXISTING CLASSI-  
25          FICATION SYSTEMS.—The Bureau of Prisons may

1 incorporate its existing Inmate Classification System  
2 into the Assessment System if the Assessment Sys-  
3 tem assesses the risk level and criminogenic needs of  
4 each prisoner and determines the appropriate secu-  
5 rity level institution for each prisoner. Before the de-  
6 velopment of the Assessment System, the Bureau of  
7 Prisons may use the existing Inmate Classification  
8 System, or a pre-existing risk and needs assessment  
9 tool that can be used to classify prisoners consistent  
10 with subsection (a)(1), or can be reasonably adapted  
11 for such purpose, for purposes of this section, sec-  
12 tion 3621(h), and section 3624(c).

13 “(c) RISK ASSESSMENT.—

14 “(1) INITIAL ASSESSMENTS.—Not later than 30  
15 months after the date on which the Attorney Gen-  
16 eral develops the Assessment System, the Bureau of  
17 Prisons shall determine the risk level of each pris-  
18 oner using the Assessment System.

19 “(2) REASSESSMENTS AND UPDATES.—The Bu-  
20 reau of Prisons shall update the assessment of each  
21 prisoner required under paragraph (1)—

22 “(A) not less frequently than once each  
23 year for any prisoner whose anticipated release  
24 date is within 3 years;

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

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

6           “(d) ASSIGNMENT OF RECIDIVISM REDUCTION PRO-  
7 GRAMS OR PRODUCTIVE ACTIVITIES.—The Assessment  
8 System shall provide guidance on the kind and amount  
9 of recidivism reduction programming or productive activi-  
10 ties appropriate for each prisoner.

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

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

24          “(g) QUALITY ASSURANCE.—In order to ensure that  
25 the Bureau of Prisons is using the Assessment System in

1 an appropriate and consistent manner, the Attorney Gen-  
 2 eral shall monitor and assess the use of the Assessment  
 3 System and shall conduct periodic audits of the use of the  
 4 Assessment System at facilities of the Bureau of Prisons.

5 “(h) DETERMINATIONS AND CLASSIFICATIONS  
 6 UNREVIEWABLE.—Subject to any constitutional limita-  
 7 tions, there shall be no right of review, right of appeal,  
 8 cognizable property interest, or cause of action, either ad-  
 9 ministrative or judicial, arising from any determination or  
 10 classification made by any Federal agency or employee  
 11 while implementing or administering the Assessment Sys-  
 12 tem, or any rules or regulations promulgated under this  
 13 section.

14 “(i) DEFINITIONS.—In this section:

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

22 “(2) RECIDIVISM RISK.—The term ‘recidivism  
 23 risk’ means the likelihood that a prisoner will com-  
 24 mit additional crimes for which the prisoner could be



1 prosecuted in a Federal, State, or local court in the  
2 United States.

3 “(3) RECIDIVISM REDUCTION PROGRAM; PRO-  
4 DUCTIVE ACTIVITY; RECOVERY PROGRAMMING.—The  
5 terms ‘recidivism reduction program’, ‘productive ac-  
6 tivity’, and ‘recovery programming’ shall have the  
7 meaning given such terms in section 3621(h)(8).”.

8 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
9 The table of sections for subchapter C of chapter 229 of  
10 title 18, United States Code, is amended by inserting after  
11 the item relating to section 3621 the following:

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

12 **SEC. 204. PRERELEASE CUSTODY.**

13 (a) IN GENERAL.—Section 3624(c) of title 18,  
14 United States Code, is amended—

15 (1) in paragraph (1), by striking the period at  
16 the end of the second sentence and inserting “or  
17 home confinement, subject to the limitation that no  
18 prisoner may serve more than 10 percent of the pris-  
19 oner’s imposed sentence in home confinement pursu-  
20 ant to this paragraph.”;

21 (2) by striking paragraphs (2) and (3) and in-  
22 serting the following:

23 “(2) CREDIT FOR RECIDIVISM REDUCTION.—In  
24 addition to any time spent in prerelease custody pur-  
25 suant to paragraph (1), a prisoner shall spend an

1 additional portion of the final months of the pris-  
2 oner's sentence, equivalent to the amount of time  
3 credit the prisoner has earned pursuant to section  
4 3621(h)(6)(A), in prerelease custody, if—

5 “(A) the prisoner's most recent risk and  
6 needs assessment, conducted within 1 year of  
7 the date on which the prisoner would first be el-  
8 igible for transfer to prerelease custody pursu-  
9 ant to paragraph (1) and this paragraph, re-  
10 flects that the prisoner is classified as low or  
11 moderate risk; and

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

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

23 (3) by redesignating paragraphs (4) through  
24 (6) as paragraphs (9) through (11), respectively;

1           (4) by inserting the following after paragraph  
2       (3):

3           “(4) HOME CONFINEMENT.—

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

7               “(i) be subject to 24-hour electronic  
8       monitoring that enables the prompt identi-  
9       fication of any violation of clause (ii);

10              “(ii) remain in the prisoner’s resi-  
11       dence, with the exception of the following  
12       activities, subject to approval by the Direc-  
13       tor of the Bureau of Prisons—

14              “(I) participation in a job, job-  
15       seeking activities, or job-related activi-  
16       ties, including an apprenticeship;

17              “(II) participation in recidivism  
18       reduction programming or productive  
19       activities assigned by the Post-Sen-  
20       tencing Risk and Needs Assessment  
21       System, or similar activities approved  
22       in advance by the Director of the Bu-  
23       reau of Prisons;

24              “(III) participation in community  
25       service;

1 “(IV) crime victim restoration ac-  
2 tivities;

3 “(V) medical treatment; or

4 “(VI) religious activities; and

5 “(iii) comply with such other condi-  
6 tions as the Director of the Bureau of  
7 Prisons deems appropriate.

8 “(B) ALTERNATIVE MEANS OF MONI-  
9 TORING.—If compliance with subparagraph  
10 (A)(i) is infeasible due to technical limitations  
11 or religious considerations, the Director of the  
12 Bureau of Prisons may employ alternative  
13 means of monitoring that are determined to be  
14 as effective or more effective than electronic  
15 monitoring.

16 “(C) MODIFICATIONS.—The Director of  
17 the Bureau of Prisons may modify the condi-  
18 tions of the prisoner’s home confinement for  
19 compelling reasons, if the prisoner’s record  
20 demonstrates exemplary compliance with such  
21 conditions.

22 “(5) COMMUNITY SUPERVISION.—

23 “(A) TIME CREDIT LESS THAN 36  
24 MONTHS.—Any prisoner described in subpara-  
25 graph (D) who has earned time credit of less

1           than 36 months pursuant to section  
2           3621(h)(6)(A) shall be eligible to serve no more  
3           than one-half of the amount of such credit on  
4           community supervision, if the prisoner satisfies  
5           the conditions set forth in subparagraph (C).

6           “(B) TIME CREDIT OF 36 MONTHS OR  
7           MORE.—Any prisoner described in subpara-  
8           graph (D) who has earned time credit of 36  
9           months or more pursuant to section  
10          3621(h)(6)(A) shall be eligible to serve the  
11          amount of such credit exceeding 18 months on  
12          community supervision, if the prisoner satisfies  
13          the conditions set forth in subparagraph (C).

14          “(C) CONDITIONS OF COMMUNITY SUPER-  
15          VISION.—A prisoner placed on community su-  
16          pervision shall be subject to such conditions as  
17          the Director of the Bureau of Prisons deems  
18          appropriate. A prisoner on community super-  
19          vision may remain on community supervision  
20          until the conclusion of the prisoner’s sentence  
21          of incarceration if the prisoner—

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

24                  “(ii) remains current on any financial  
25                  obligations imposed as part of the pris-

1            oner’s sentence, including payments of  
 2            court-ordered restitution arising from the  
 3            offense of conviction; and

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

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

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

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

16           “(6) VIOLATIONS.—If a prisoner violates a con-  
 17           dition of the prisoner’s prerelease custody, the Di-  
 18           rector of the Bureau of Prisons may revoke the pris-  
 19           oner’s prerelease custody and require the prisoner to  
 20           serve the remainder of the prisoner’s term of incar-  
 21           ceration, or any portion thereof, in prison, or impose  
 22           additional conditions on the prisoner’s prerelease  
 23           custody as the Director of the Bureau of Prisons  
 24           deems appropriate. If the violation is nontechnical in

1 nature, the Director of the Bureau of Prisons shall  
2 revoke the prisoner's prerelease custody.

3 “(7) CREDIT FOR PRERELEASE CUSTODY.—  
4 Upon completion of a prisoner's sentence, any term  
5 of supervised release imposed on the prisoner shall  
6 be reduced by the amount of time the prisoner  
7 served in prerelease custody pursuant to paragraph  
8 (2).

9 “(8) AGREEMENTS WITH UNITED STATES PRO-  
10 BATION AND PRETRIAL SERVICES.—The Director of  
11 the Bureau of Prisons shall, to the greatest extent  
12 practicable, enter into agreements with the United  
13 States Probation and Pretrial Services to supervise  
14 prisoners placed in home confinement or community  
15 supervision under this subsection. Such agreements  
16 shall authorize United States Probation and Pretrial  
17 Services to exercise the authority granted to the Di-  
18 rector of the Bureau of Prisons pursuant to para-  
19 graphs (4), (5), and (12). Such agreements shall  
20 take into account the resource requirements of  
21 United States Probation and Pretrial Services as a  
22 result of the transfer of Bureau of Prisons inmates  
23 to prerelease custody and shall provide for the trans-  
24 fer of monetary sums necessary to comply with such  
25 requirements. United States Probation and Pretrial

1 Services shall, to the greatest extent practicable,  
 2 offer assistance to any prisoner not under its super-  
 3 vision during prerelease custody under this sub-  
 4 section.”; and

5 (5) by inserting at the end the following:

6 “(12) DETERMINATION OF APPROPRIATE CON-  
 7 DITIONS FOR PRERELEASE CUSTODY.—In deter-  
 8 mining appropriate conditions for prerelease custody  
 9 pursuant to this subsection, and in accordance with  
 10 paragraph (5), the Director of the Bureau of Pris-  
 11 ons shall, to the extent practicable, subject prisoners  
 12 who demonstrate continued compliance with the re-  
 13 quirements of such prerelease custody to increas-  
 14 ingly less restrictive conditions, so as to most effec-  
 15 tively prepare such prisoners for reentry. No pris-  
 16 oner shall be transferred to community supervision  
 17 unless the length of the prisoner’s eligibility for com-  
 18 munity supervision pursuant to paragraph (5) is  
 19 equivalent to or greater than the length of the pris-  
 20 oner’s remaining period of prerelease custody.

21 “(13) ALIENS SUBJECT TO DEPORTATION.—If  
 22 the prisoner is an alien whose deportation was or-  
 23 dered as a condition of supervised release or who is  
 24 subject to a detainer filed by Immigration and Cus-  
 25 toms Enforcement for the purposes of determining



1 the alien's deportability, the Director of the Bureau  
2 of Prisons shall, upon the prisoner's transfer to  
3 prerelease custody pursuant to paragraphs (1) and  
4 (2), deliver the prisoner to United States Immigra-  
5 tion and Customs Enforcement for the purpose of  
6 conducting proceedings relating to the alien's depor-  
7 tation.

8 “(14) NOTICE OF TRANSFER TO PRERELEASE  
9 CUSTODY.—

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

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

23 “(C) CONTENTS OF NOTICE.—The notice  
24 required under subparagraph (A) shall include  
25 the following information:

1 “(i) The amount of credit earned pur-  
2 suant to paragraph (2).

3 “(ii) The anticipated date of the pris-  
4 oner’s transfer.

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

7 “(iv) The prisoner’s behavioral record.

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

10 “(D) HEARING.—

11 “(i) IN GENERAL.—On motion of the  
12 Government, the sentencing court may  
13 conduct a hearing on the prisoner’s trans-  
14 fer to prerelease custody.

15 “(ii) PRISONER’S PRESENCE.—The  
16 prisoner shall have the right to be present  
17 at a hearing described in clause (i), unless  
18 the prisoner waives such right. The re-  
19 quirement under this clause may be satis-  
20 fied by the defendant appearing by video  
21 teleconference.

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

24 “(I) shall set forth the basis for  
25 the Government’s request that the

1 prisoner's transfer be denied or modi-  
 2 fied pursuant to subparagraph (E);  
 3 and

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

7 “(E) DETERMINATION OF THE COURT.—

8 The court may deny the transfer of the prisoner  
 9 to prerelease custody or modify the terms of  
 10 such transfer, if, after conducting a hearing  
 11 pursuant to subparagraph (D), the court finds  
 12 in writing, by a preponderance of the evidence,  
 13 that the transfer of the prisoner is inconsistent  
 14 with the factors specified in paragraphs (2),  
 15 (6), and (7) of section 3553(a).”.

16 (b) EFFECTIVE DATE.—The amendments made by  
 17 this section shall take effect 1 year after the date of enact-  
 18 ment of this Act.

19 **SEC. 205. REPORTS.**

20 (a) ANNUAL REPORTS.—

21 (1) REPORTS.—Not later than 1 year after the  
 22 date of enactment of this Act, and every year there-  
 23 after, the Attorney General, in coordination with the  
 24 Comptroller General of the United States, shall sub-

1       mit to the appropriate committees of Congress a re-  
2       port that contains the following:

3               (A) A summary of the activities and ac-  
4               complishments of the Attorney General in car-  
5               rying out this title and the amendments made  
6               by this title.

7               (B) An assessment of the status and use  
8               of the Post-Sentencing Risk and Needs Assess-  
9               ment System by the Bureau of Prisons, includ-  
10              ing the number of prisoners classified at each  
11              risk level under the Post-Sentencing Risk and  
12              Needs Assessment System at each facility of  
13              the Bureau of Prisons.

14             (C) A summary and assessment of the  
15             types and effectiveness of the recidivism reduc-  
16             tion programs and productive activities in facili-  
17             ties operated by the Bureau of Prisons, includ-  
18             ing—

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

22                   (ii) the capacity of each program and  
23                   activity at each facility, including the num-  
24                   ber of prisoners along with the risk level of

1 each prisoner enrolled in each program and  
2 activity; and

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

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

10 (i) a summary of the amount of sav-  
11 ings resulting from the transfer of pris-  
12 oners into prerelease custody under this  
13 title and the amendments made by this  
14 title, including savings resulting from the  
15 avoidance or deferral of future construc-  
16 tion, acquisition, or operations costs;

17 (ii) a summary of the amount of sav-  
18 ings resulting from any decrease in recidi-  
19 vism that may be attributed to the imple-  
20 mentation of the Post-Sentencing Risk and  
21 Needs Assessment System or the increase  
22 in recidivism reduction programs and pro-  
23 ductive activities required by this title and  
24 the amendments made by this title; and

1 (iii) a strategy to reinvest such sav-  
 2 ings into other Federal, State, and local  
 3 law enforcement activities and expansions  
 4 of recidivism reduction programs and pro-  
 5 ductive activities in the Bureau of Prisons.

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

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

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

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

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

1           scribed in paragraph (1)(D)(ii) for the fiscal  
2           year.

3           (C) USE OF FUNDS.—The funds described  
4           in subparagraph (A)(ii) shall be used, con-  
5           sistent with paragraph (1)(D)(iii), to—

6                   (i) ensure that, not later than 6 years  
7                   after the date of enactment of this Act, re-  
8                   cidivism reduction programs or productive  
9                   activities are available to all eligible pris-  
10                  oners;

11                   (ii) ensure compliance with the re-  
12                   source needs of United States Probation  
13                   and Pretrial Services resulting from an  
14                   agreement under section 3624(c)(8) of title  
15                   18, United States Code, as added by this  
16                   title; and

17                   (iii) supplement funding for programs  
18                   that increase public safety by providing re-  
19                   sources to State and local law enforcement  
20                   officials, including for the adoption of in-  
21                   novative technologies and information  
22                   sharing capabilities.

23           (b) PRISON WORK PROGRAMS REPORT.—Not later  
24           than 180 days after the date of enactment of this Act,  
25           the Attorney General shall submit to the appropriate com-

1 mittees of Congress a report on the status of prison work  
 2 programs at facilities operated by the Bureau of Prisons,  
 3 including—

4           (1) a strategy to expand the availability of such  
 5 programs without reducing job opportunities for  
 6 workers in the United States who are not in the cus-  
 7 tody of the Bureau of Prisons;

8           (2) an assessment of the feasibility of expand-  
 9 ing such programs, consistent with the strategy re-  
 10 quired under paragraph (1), so that, not later than  
 11 5 years after the date of enactment of this Act, not  
 12 less than 75 percent of eligible low-risk offenders  
 13 have the opportunity to participate in a prison work  
 14 program for not less than 20 hours per week; and

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

18 (c) REPORTING ON RECIDIVISM RATES.—

19           (1) IN GENERAL.—Beginning 1 year after the  
 20 date of enactment of this Act, and every year there-  
 21 after, the Attorney General, in consultation with the  
 22 Administrative Office of the United States Courts,  
 23 shall report to the appropriate committees of Con-  
 24 gress on rates of recidivism among individuals who



1 have been released from Federal prison and who are  
2 under judicial supervision.

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

8 (A) Primary offense charged.

9 (B) Length of sentence imposed and  
10 served.

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

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

15 (E) The prisoner's assessed risk of recidi-  
16 vism.

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

22 (d) REPORTING ON EXCLUDED PRISONERS.—Not  
23 later than 8 years after the date of enactment of this Act,  
24 the Attorney General shall submit to the appropriate com-  
25 mittees of Congress a report on the effectiveness of recidi-

1 vism reduction programs and productive activities offered  
 2 to prisoners described in section 3621(h)(6)(A)(iii) of title  
 3 18, United States Code, as added by this title, as well as  
 4 those ineligible for credit toward prerelease custody under  
 5 section 3624(c)(2) of title 18, United States Code, as  
 6 added by this title, which shall review the effectiveness of  
 7 different categories of incentives in reducing recidivism.

8 (e) DEFINITION.—The term “appropriate committees  
 9 of Congress” means—

10 (1) the Committee on the Judiciary and the  
 11 Subcommittee on Commerce, Justice, Science, and  
 12 Related Agencies of the Committee on Appropria-  
 13 tions of the Senate; and

14 (2) the Committee on the Judiciary and the  
 15 Subcommittee on Commerce, Justice, Science, and  
 16 Related Agencies of the Committee on Appropria-  
 17 tions of the House of Representatives.

18 **SEC. 206. ADDITIONAL TOOLS TO PROMOTE RECOVERY**  
 19 **AND PREVENT DRUG AND ALCOHOL ABUSE**  
 20 **AND DEPENDENCE.**

21 (a) REENTRY AND RECOVERY PLANNING.—

22 (1) PRESENTENCE REPORTS.—Section 3552 of  
 23 title 18, United States Code, is amended—

1 (A) by redesignating subsections (b), (c),  
2 and (d) as subsections (c), (d), and (e), respec-  
3 tively;

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

6 “(b) REENTRY AND RECOVERY PLANNING.—

7 “(1) IN GENERAL.—In addition to the informa-  
8 tion required by rule 32(d) of the Federal Rules of  
9 Criminal Procedure, the report submitted pursuant  
10 to subsection (a) shall contain the following informa-  
11 tion, unless such information is required to be ex-  
12 cluded pursuant to rule 32(d)(3) of the Federal  
13 Rules of Criminal Procedure or except as provided  
14 in paragraph (2):

15 “(A) Information about the defendant’s  
16 history of substance abuse and addiction, if ap-  
17 plicable.

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

21 “(C) A detailed plan, which shall include  
22 the identification of programming provided by  
23 the Bureau of Prisons that is appropriate for  
24 the defendant’s needs, that the probation officer  
25 determines will—

1 “(i) reduce the likelihood the defend-  
 2 ant will abuse drugs or alcohol if the de-  
 3 fendant has a history of substance abuse;

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

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

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

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

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

22 (2) TECHNICAL AND CONFORMING AMEND-  
 23 MENT.—Section 3672 of title 18, United States  
 24 Code, is amended in the eighth undesignated para-

1 graph by striking “subsection (b) or (c)” and insert-  
2 ing “subsection (c) or (d)”.

3 (b) PROMOTING FULL UTILIZATION OF RESIDEN-  
4 TIAL DRUG TREATMENT.—Section 3621(e)(2) of title 18,  
5 United States Code, is amended by adding at the end the  
6 following:

7 “(C) COMMENCEMENT OF TREATMENT.—  
8 Not later than 3 years after the date of enact-  
9 ment of this subparagraph, the Director of the  
10 Bureau of Prisons shall ensure that each eligi-  
11 ble prisoner has an opportunity to commence  
12 participation in treatment under this subsection  
13 by such date as is necessary to ensure that the  
14 prisoner completes such treatment not later  
15 than 1 year before the date on which the pris-  
16 oner would otherwise be released from custody  
17 prior to the application of any reduction in sen-  
18 tence pursuant to this paragraph.

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

1           of the reduction awarded to the prisoner under  
2           subparagraph (B).”.

3           (c) SUPERVISED RELEASE PILOT PROGRAM TO RE-  
4   DUCE RECIDIVISM AND IMPROVE RECOVERY FROM ALCO-  
5   HOL AND DRUG ABUSE.—

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

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

19           (A) Upon entry into the pilot program, the  
20   court shall notify program participants of the  
21   rules of the program and consequences for vio-  
22   lating such rules, including the penalties to be  
23   imposed as a result of such violations pursuant  
24   to subparagraph (E).

1 (B) Probation officers shall conduct reg-  
2 ular drug testing of all pilot program partici-  
3 pants with a history of substance abuse.

4 (C) In the event that a probation officer  
5 determines that a participant has violated a  
6 term of supervised release, the officer shall no-  
7 tify the court within 24 hours of such deter-  
8 mination, absent good cause.

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

14 (E) If the court determines that a program  
15 participant has violated a term of supervised re-  
16 lease, it shall impose an appropriate sanction,  
17 which may include the following, if appropriate:

18 (i) Modification of the terms of such  
19 participant's supervised release, which may  
20 include imposition of a period of home con-  
21 finement.

22 (ii) Referral to appropriate substance  
23 abuse treatment.

24 (iii) Revocation of the defendant's su-  
25 pervised release and the imposition of a

1 sentence of incarceration that is no longer  
2 than necessary to punish the participant  
3 for such violation and deter the participant  
4 from committing future violations.

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

9 (3) STATUS OF PARTICIPANT IF INCARCER-  
10 ATED.—

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

18 (B) POLICIES FOR MAINTAINING EMPLOY-  
19 MENT.—The Bureau of Prisons, in consultation  
20 with the Chief Probation Officers of the Federal  
21 judicial districts selected for participation in the  
22 pilot program required under paragraph (1),  
23 shall develop policies to enable program partici-  
24 pants sentenced to terms of incarceration as de-  
25 scribed in paragraph (2)(E) to, where prac-



1            ticable, serve the terms of incarceration while  
2            maintaining employment, including allowing the  
3            terms of incarceration to be served on week-  
4            ends.

5            (4) ADVISORY SENTENCING POLICIES.—

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

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

22            (5) DURATION OF PROGRAM.—The pilot pro-  
23          gram required under paragraph (1) shall continue  
24          for not less than 5 years and may be extended for

1 not more than 5 years by the Administrative Office  
2 of the United States Courts.

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

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

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

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

15 (ii) the rates of violations of the terms  
16 of supervised release by program partici-  
17 pants, and sanctions imposed;

18 (iii) information about employment of  
19 program participants;

20 (iv) a comparison of outcomes among  
21 program participants with outcomes among  
22 similarly situated individuals under the su-  
23 pervision of United States Probation and  
24 Pretrial Services not participating in the  
25 program; and

1 (v) an assessment of the effectiveness  
 2 of each of the relevant features of the pro-  
 3 gram.

4 **SEC. 207. ERIC WILLIAMS CORRECTIONAL OFFICER PRO-**  
 5 **TECTION ACT.**

6 (a) IN GENERAL.—Chapter 303 of title 18, United  
 7 States Code, is amended by adding at the end the fol-  
 8 lowing:

9 **“§ 4049. Officers and employees of the Bureau of Pris-**  
 10 **ons authorized to carry oleoresin cap-**  
 11 **sicum spray**

12 “(a) IN GENERAL.—The Director of the Bureau of  
 13 Prisons shall issue, on a routine basis, oleoresin capsicum  
 14 spray to—

15 “(1) any officer or employee of the Bureau of  
 16 Prisons who—

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

19 “(B) may respond to an emergency situa-  
 20 tion in such a prison; and

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

24 “(b) TRAINING REQUIREMENT.—

1           “(1) IN GENERAL.—In order for an officer or  
2           employee of the Bureau of Prisons, including a cor-  
3           rectional officer, to be eligible to receive and carry  
4           oleoresin capsicum spray pursuant to this section,  
5           the officer or employee shall complete a training  
6           course before being issued such spray, and annually  
7           thereafter, on the use of oleoresin capsicum spray.

8           “(2) TRANSFERABILITY OF TRAINING.—An offi-  
9           cer or employee of the Bureau of Prisons who com-  
10          pletes a training course pursuant to paragraph (1)  
11          and subsequently transfers to employment at a dif-  
12          ferent prison, shall not be required to complete an  
13          additional training course solely due such transfer.

14          “(3) TRAINING CONDUCTED DURING REGULAR  
15          EMPLOYMENT.—An officer or employee of the Bu-  
16          reau of Prisons who completes a training course re-  
17          quired under paragraph (1) shall do so during the  
18          course of that officer or employee’s regular employ-  
19          ment, and shall be compensated at the same rate  
20          that the officer or employee would be compensated  
21          for conducting the officer or employee’s regular du-  
22          ties.

23          “(c) USE OF OLEORESIN CAPSICUM SPRAY.—Offi-  
24          cers and employees of the Bureau of Prisons issued oleo-

1 resin capsicum spray pursuant to subsection (a) may use  
 2 such spray to reduce acts of violence—

3 “(1) committed by prisoners against themselves,  
 4 other prisoners, prison visitors, and officers and em-  
 5 ployees of the Bureau of Prisons; and

6 “(2) committed by prison visitors against them-  
 7 selves, prisoners, other visitors, and officers and em-  
 8 ployees of the Bureau of Prisons.”.

9 (b) CLERICAL AMENDMENT.—The table of sections  
 10 for chapter 303 of part III of title 18, United States Code,  
 11 is amended by inserting after the item relating to section  
 12 4048 the following:

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

13 (c) GAO REPORT.—Not later than the date that is  
 14 3 years after the date on which the Director of the Bureau  
 15 of Prisons begins to issue oleoresin capsicum spray to offi-  
 16 cers and employees of the Bureau of Prisons pursuant to  
 17 section 4049 of title 18, United States Code (as added  
 18 by this title), the Comptroller General of the United States  
 19 shall submit to Congress a report that includes the fol-  
 20 lowing:

21 (1) An evaluation of the effectiveness of issuing  
 22 oleoresin capsicum spray to officers and employees  
 23 of the Bureau of Prisons in prisons that are not  
 24 minimum or low security prisons on—

1 (A) reducing crime in such prisons; and

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

6 (2) An evaluation of the advisability of issuing  
7 oleoresin capsicum spray to officers and employees  
8 of the Bureau of Prisons in prisons that are min-  
9 imum or low security prisons, including—

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

16 (B) the cost of issuing such spray in such  
17 prisons. Recommendations to improve the safe-  
18 ty of officers and employees of the Bureau of  
19 Prisons in prisons.

20 **SEC. 208. PROMOTING SUCCESSFUL REENTRY.**

21 (a) FEDERAL REENTRY DEMONSTRATION  
22 PROJECTS.—

23 (1) EVALUATION OF EXISTING BEST PRACTICES  
24 FOR REENTRY.—Not later than 2 years after the  
25 date of enactment of this Act, the Attorney General,

1 in consultation with the Administrative Office of the  
2 United States Courts, shall—

3 (A) evaluate best practices used for the re-  
4 entry into society of individuals released from  
5 the custody of the Bureau of Prisons, includ-  
6 ing—

7 (i) conducting examinations of reentry  
8 practices in State and local justice sys-  
9 tems; and

10 (ii) consulting with Federal, State,  
11 and local prosecutors, Federal, State, and  
12 local public defenders, nonprofit organiza-  
13 tions that provide reentry services, and  
14 criminal justice experts; and

15 (B) submit to the Committee on the Judi-  
16 ciary of the Senate and the Committee on the  
17 Judiciary of the House of Representatives a re-  
18 port that details the evaluation conducted under  
19 subparagraph (A).

20 (2) CREATION OF REENTRY DEMONSTRATION  
21 PROJECTS.—Not later than 3 years after the date of  
22 enactment of this Act, the Attorney General, in con-  
23 sultation with the Administrative Office of the  
24 United States Courts, shall, subject to the avail-  
25 ability of appropriations, select an appropriate num-

1       ber of Federal judicial districts to conduct Federal  
2       reentry demonstration projects using the best prac-  
3       tices identified in the evaluation conducted under  
4       paragraph (1). The Attorney General shall deter-  
5       mine the appropriate number of Federal judicial dis-  
6       tricts to conduct demonstration projects under this  
7       paragraph.

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

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

22           (A) the use of community correctional fa-  
23           cilities and home confinement, as determined to  
24           be appropriate by the Bureau of Prisons;



1           (B) a reentry review team for each pris-  
2           oner to develop a reentry plan specific to the  
3           needs of the prisoner, and to meet with the  
4           prisoner following transfer to monitor the re-  
5           entry plan;

6           (C) steps to assist the prisoner in obtain-  
7           ing health care, housing, and employment, be-  
8           fore the prisoner's release from a community  
9           correctional facility or home confinement;

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

12          (E) substance abuse treatment, which may  
13          include addiction treatment medication, if ap-  
14          propriate, medical treatment, including mental  
15          health treatment, occupational, vocational and  
16          educational training, apprenticeships, life skills  
17          instruction, recovery support, conflict resolution  
18          training, and other programming to promote ef-  
19          fective reintegration into the community;

20          (F) the participation of volunteers to serve  
21          as advisors and mentors to prisoners being re-  
22          leased into the community;

23          (G) steps to ensure that the prisoner  
24          makes satisfactory progress toward satisfying  
25          any obligations to victims of the prisoner's of-

1 fense, including any obligation to pay restitu-  
2 tion; and

3 (H) the appointment of a reentry coordi-  
4 nator in the United States Attorney's Office.

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

10 (A) evaluate the results from each Federal  
11 judicial district selected under paragraph (2),  
12 including the extent to which participating pris-  
13 oners released from the custody of the Bureau  
14 of Prisons were successfully reintegrated into  
15 their communities, including whether the par-  
16 ticipating prisoners maintained employment,  
17 and refrained from committing further offenses;  
18 and

19 (B) submit to the Committee on the Judi-  
20 ciary of the Senate and the Committee on the  
21 Judiciary of the House of Representatives a re-  
22 port that contains—

23 (i) the evaluation of the best practices  
24 identified in the report required under  
25 paragraph (1); and

1 (ii) the results of the demonstration  
2 projects required under paragraph (2).

3 (b) STUDY ON THE IMPACT OF REENTRY ON CER-  
4 TAIN COMMUNITIES.—

5 (1) IN GENERAL.—Not later than 2 years after  
6 the date of enactment of this Act, the Attorney Gen-  
7 eral, in consultation with the Administrative Office  
8 of the United States Courts, shall submit to the  
9 Committee on the Judiciary of the Senate and the  
10 Committee on the Judiciary of the House of Rep-  
11 resentatives a report on the impact of reentry of  
12 prisoners on communities in which a dispropor-  
13 tionate number of individuals reside upon release  
14 from incarceration.

15 (2) CONTENTS.—The report required under  
16 paragraph (1) shall analyze the impact of reentry of  
17 individuals released from both State and Federal  
18 correctional systems as well as State and Federal ju-  
19 venile justice systems, and shall include—

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

22 (B) a review of the resources available in  
23 such communities to support successful reentry,  
24 including resources provided by State, local,

and Federal governments, the extent to which those resources are used effectively; and

(C) recommendations to strengthen the resources in such communities available to support successful reentry and to lessen the burden placed on such communities by the need to support reentry.

(c) FACILITATING REENTRY ASSISTANCE TO VETERANS.—

(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 Affairs 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 prisoner's prior service in the Armed Forces of the United States after the commencement of the prisoner's sentence, the Director of the Bureau of Prisons shall notify the Secretary of Veterans Affairs

1 not later than 2 months after the date on which the  
 2 prisoner provides such notice.

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

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

16 **SEC. 209. PAROLE FOR JUVENILES.**

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

20 **“§ 5032A. Modification of an imposed term of impris-**  
 21 **onment for violations of law committed**  
 22 **prior to age 18**

23 “(a) IN GENERAL.—Notwithstanding any other pro-  
 24 vision of law, a court may reduce a term of imprisonment  
 25 imposed upon a defendant convicted as an adult for an

1 offense committed and completed before the defendant at-  
2 tained 18 years of age if—

3 “(1) the defendant has served 20 years in pris-  
4 on for the offense; and

5 “(2) the court finds, after considering the fac-  
6 tors set forth in subsection (c), that the defendant  
7 is not a danger to the safety of any person or the  
8 community and that the interests of justice warrant  
9 a sentence modification.

10 “(b) SUPERVISED RELEASE.—Any defendant whose  
11 sentence is reduced pursuant to subsection (a) shall be or-  
12 dered to serve a period of supervised release of not less  
13 than 5 years following release from imprisonment. The  
14 conditions of supervised release and any modification or  
15 revocation of the term of supervise release shall be in ac-  
16 cordance with section 3583.

17 “(c) FACTORS AND INFORMATION TO BE CONSID-  
18 ERED IN DETERMINING WHETHER TO MODIFY A TERM  
19 OF IMPRISONMENT.—The court, in determining whether  
20 to reduce a term of imprisonment pursuant to subsection  
21 (a), shall consider—

22 “(1) the factors described in section 3553(a),  
23 including the nature of the offense and the history  
24 and characteristics of the defendant;

1           “(2) the age of the defendant at the time of the  
2 offense;

3           “(3) a report and recommendation of the Bu-  
4 reau of Prisons, including information on whether  
5 the defendant has substantially complied with the  
6 rules of each institution to which the defendant has  
7 been confined and whether the defendant has com-  
8 pleted any educational, vocational, or other prison  
9 program, where available;

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

14          “(5) whether the defendant has demonstrated  
15 maturity, rehabilitation, and a fitness to reenter so-  
16 ciety sufficient to justify a sentence reduction;

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

21          “(7) any report of physical, mental, or psy-  
22 chiatric examination of the defendant conducted by  
23 a licensed health care professional;

24          “(8) the family and community circumstances  
25 of the defendant at the time of the offense, including

1 any history of abuse, trauma, or involvement in the  
2 child welfare system;

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

6 “(10) the diminished culpability of juveniles as  
7 compared to that of adults, and the hallmark fea-  
8 tures of youth, including immaturity, impetuosity,  
9 and failure to appreciate risks and consequences,  
10 which counsel against sentencing them to the other-  
11 wise applicable term of imprisonment; and

12 “(11) any other information the court deter-  
13 mines relevant to the decision of the court.

14 “(d) LIMITATION ON APPLICATIONS PURSUANT TO  
15 THIS SECTION.—

16 “(1) SECOND APPLICATION.—Not earlier than  
17 5 years after the date on which an order entered by  
18 a court on an initial application under this section  
19 becomes final, a court shall entertain a second appli-  
20 cation by the same defendant under this section.

21 “(2) FINAL APPLICATION.—Not earlier than 5  
22 years after the date on which an order entered by  
23 a court on a second application under paragraph (1)  
24 becomes final, a court shall entertain a final applica-  
25 tion by the same defendant under this section.



1           “(3) PROHIBITION.—A court may not entertain  
2           an application filed after an application filed under  
3           paragraph (2) by the same defendant.

4           “(e) PROCEDURES.—

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

7                   “(A) any defendant who has served 19  
8                   years in prison for an offense committed and  
9                   completed prior to the defendant’s 18th birth-  
10                  day for which the defendant was convicted as  
11                  an adult; and

12                  “(B) the sentencing court, the United  
13                  States attorney, and the Federal Public De-  
14                  fender or Executive Director of the Community  
15                  Defender Organization for the judicial district  
16                  in which the sentence described in subpara-  
17                  graph (A) was imposed.

18           “(2) CRIME VICTIMS RIGHTS.—Upon receiving  
19           noticed under paragraph (1), the United States at-  
20           torney shall provide any notifications required under  
21           section 3771.

22           “(3) APPLICATION.—

23                   “(A) IN GENERAL.—An application for a  
24                   sentence reduction under this section shall be  
25                   filed as a motion to reduce the sentence of the

1 defendant and may include affidavits or other  
2 written material.

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

8 “(4) EXPANDING THE RECORD; HEARING.—

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

14 “(B) HEARING.—

15 “(i) IN GENERAL.—The court shall  
16 conduct a hearing on the motion, at which  
17 the defendant and counsel for the defend-  
18 ant shall be given the opportunity to be  
19 heard.

20 “(ii) EVIDENCE.—In a hearing under  
21 this section, the court may allow for par-  
22 ties to present evidence.

23 “(iii) DEFENDANT’S PRESENCE.—At  
24 a hearing under this section, the defendant  
25 shall be present unless the defendant

1           waives the right to be present. The re-  
2           quirement under this clause may be satis-  
3           fied by the defendant appearing by video  
4           teleconference.

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

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

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

21          “(f) EDUCATIONAL AND REHABILITATIVE PRO-  
22          GRAMS.—A defendant who is convicted and sentenced as  
23          an adult for an offense committed and completed before  
24          the defendant attained 18 years of age may not be de-  
25          prived of any educational, training, or rehabilitative pro-

1 gram that is otherwise available to the general prison pop-  
 2 ulation.”.

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

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

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

10 **SEC. 210. COMPASSIONATE RELEASE INITIATIVE.**

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

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

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

19 (3) in paragraph (5)(A)—

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

22 (B) in clause (ii)—

23 (i) by striking “the greater of 10  
 24 years or”; and

1 (ii) by striking “75 percent” and in-  
 2 serting “ $\frac{2}{3}$ ”;

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

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

7 (E) by adding at the end the following:

8 “(viii) who—

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

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

17 **SEC. 211. JUVENILE SEALING AND EXPUNGEMENT.**

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

19 (1) protect children and adults against damage  
 20 stemming from their juvenile acts and subsequent  
 21 juvenile delinquency records, including law enforce-  
 22 ment, arrest, and court records; and

23 (2) prevent the unauthorized use or disclosure  
 24 of confidential juvenile delinquency records and any  
 25 potential employment, financial, psychological, or

1       other harm that would result from such unauthor-  
2       ized use or disclosure.

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

5   **“§ 5031. Definitions**

6       “In this chapter—

7           “(1) the term ‘adjudication’ means a deter-  
8       mination by a judge that a person committed an act  
9       of juvenile delinquency;

10          “(2) the term ‘conviction’ means a judgment or  
11       disposition in criminal court against a person fol-  
12       lowing a finding of guilt by a judge or jury;

13          “(3) the term ‘destroy’ means to render a file  
14       unreadable, whether paper, electronic, or otherwise  
15       stored, by shredding, pulverizing, pulping, incin-  
16       erating, overwriting, reformatting the media, or  
17       other means;

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

22          “(5) the term ‘expungement hearing’ means a  
23       hearing held under section 5044(b)(2)(B);

1           “(6) the term ‘expungement petition’ means a  
2       petition for expungement filed under section  
3       5044(b);

4           “(7) the term ‘juvenile’ means—

5               “(A) except as provided in subparagraph  
6       (B), a person who has not attained the age of  
7       18; and

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

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

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

19               “(A) in the case of an arrest or an adju-  
20      dication that is dismissed or finds the juvenile  
21      to be not delinquent, an act of juvenile delin-  
22      quency that is not—

23                   “(i) a criminal homicide, forcible rape  
24                   or any other sex offense (as defined in sec-  
25                   tion 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 fire-  
 arm 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 ju-  
 venile 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 de-  
 cree;

“(ii) a social record, including—



1 “(I) a record of a probation offi-  
2 cer;

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

6 “(III) a medical record;

7 “(IV) a psychiatric or psycho-  
8 logical record;

9 “(V) a birth certificate;

10 “(VI) an education record, in-  
11 cluding an individualized education  
12 plan;

13 “(VII) a detention record;

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

17 “(IX) any other record that in-  
18 cludes personally identifiable informa-  
19 tion that may be associated with a ju-  
20 venile delinquency proceeding, an act  
21 of juvenile delinquency, or an alleged  
22 act of juvenile delinquency; and

23 “(iii) a law enforcement record, in-  
24 cluding a photograph or a State criminal  
25 justice information system record; and

1 “(C) does not include—

2 “(i) fingerprints; or

3 “(ii) a DNA sample;

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

6 “(12) the term ‘seal’ means—

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

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

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

15 “(14) the term ‘sealing petition’ means a peti-  
16 tion for a sealing order filed under section  
17 5043(b).”.

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

20 (1) in subsection (a), in the flush text following  
21 paragraph (6), by inserting after “bonding,” the fol-  
22 lowing: “participation in an educational system,”;  
23 and

24 (2) in subsection (b), by striking “District  
25 courts exercising jurisdiction over any juvenile” and

1 inserting the following: “Not later than 7 days after  
 2 the date on which a district court exercises jurisdic-  
 3 tion over a juvenile, the district court”.

4 (d) SEALING; EXPUNGEMENT.—

5 (1) IN GENERAL.—Chapter 403 of title 18,  
 6 United States Code, is amended by adding at the  
 7 end the following:

8 **“§ 5043. Sealing**

9 “(a) AUTOMATIC SEALING OF NONVIOLENT OF-  
 10 FENSES.—

11 “(1) IN GENERAL.—Three years after the date  
 12 on which a person who is adjudicated delinquent  
 13 under this chapter for a juvenile nonviolent offense  
 14 completes every term of probation, official detention,  
 15 or juvenile delinquent supervision ordered by the  
 16 court with respect to the offense, the court shall  
 17 order the sealing of each juvenile record or portion  
 18 thereof that relates to the offense if the person—

19 “(A) has not been convicted of a crime or  
 20 adjudicated delinquent for an act of juvenile de-  
 21 linquency since the date of the disposition; and

22 “(B) is not engaged in active criminal  
 23 court proceedings or juvenile delinquency pro-  
 24 ceedings.

1           “(2) AUTOMATIC NATURE OF SEALING.—The  
2           order of sealing under paragraph (1) shall require  
3           no action by the person whose juvenile records are  
4           to be sealed.

5           “(3) NOTICE OF AUTOMATIC SEALING.—A  
6           court that orders the sealing of a juvenile record of  
7           a person under paragraph (1) shall, in writing, in-  
8           form the person of the sealing and the benefits of  
9           sealing the record.

10          “(b) PETITIONING FOR EARLY SEALING OF NON-  
11       VIOLENT OFFENSES.—

12           “(1) RIGHT TO FILE SEALING PETITION.—

13           “(A) IN GENERAL.—During the 3-year pe-  
14           riod beginning on the date on which a person  
15           who is adjudicated delinquent under this chap-  
16           ter for a juvenile nonviolent offense completes  
17           every term of probation, official detention, or  
18           juvenile delinquent supervision ordered by the  
19           court with respect to the offense, the person  
20           may petition the court to seal the juvenile  
21           records that relate to the offense unless the per-  
22           son—

23                   “(i) has been convicted of a crime or  
24                   adjudicated delinquent for an act of juve-

1           nile delinquency since the date of the dis-  
2           position; or

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

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

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

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

25          “(2) PROCEDURES.—

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

6                   “(i) to the Attorney General; and

7                   “(ii) upon the request of the peti-  
8           tioner, to any other individual that the pe-  
9           titioner determines may testify as to—

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

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

14           “(B) HEARING.—

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

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

20                   “(II) determine whether to enter  
21           a sealing order for the person in ac-  
22           cordance with subparagraph (C).

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

1                   “(I) PETITIONER.—The peti-  
2                   tioner may testify or offer evidence at  
3                   the sealing hearing in support of seal-  
4                   ing.

5                   “(II) PROSECUTOR.—The Attor-  
6                   ney General may send a representa-  
7                   tive to testify or offer evidence at the  
8                   sealing hearing in support of or  
9                   against sealing.

10                  “(III) OTHER INDIVIDUALS.—An  
11                  individual who receives notice under  
12                  subparagraph (A)(ii) may testify or  
13                  offer evidence at the sealing hearing  
14                  as to the issues described in sub-  
15                  clauses (I) and (II) of that subpara-  
16                  graph.

17                  “(iii) WAIVER OF HEARING.—If the  
18                  petitioner and the Attorney General so  
19                  agree, the court shall make a determina-  
20                  tion under subparagraph (C) without a  
21                  hearing.

22                  “(C) BASIS FOR DECISION.—The court  
23                  shall determine whether to grant the sealing pe-  
24                  tition after considering—

1 “(i) the sealing petition and any docu-  
2 ments in the possession of the court;

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

6 “(iii) the best interests of the peti-  
7 tioner;

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

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

13 “(vi) the disposition of the case;

14 “(vii) the manner in which the peti-  
15 tioner participated in any court-ordered re-  
16 habilitative programming or supervised  
17 services;

18 “(viii) the length of the time period  
19 during which the petitioner has been with-  
20 out contact with any court or law enforce-  
21 ment agency;

22 “(ix) whether the petitioner has had  
23 any criminal or juvenile delinquency in-  
24 volvement since the disposition of the juve-  
25 nile delinquency proceeding; and



1           “(x) the adverse consequences the pe-  
2           titioner may suffer if the petition is not  
3           granted.

4           “(D) WAITING PERIOD AFTER DENIAL.—If  
5           the court denies a sealing petition, the peti-  
6           tioner may not file a new sealing petition with  
7           respect to the same juvenile nonviolent offense  
8           until the date that is 2 years after the date of  
9           the denial.

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

15          “(F) NO FEE FOR INDIGENT PETI-  
16          TIONERS.—If the court determines that the pe-  
17          titioner is indigent, there shall be no cost for  
18          filing a sealing petition.

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

24               “(i) describes—

1                   “(I) the number of sealing peti-  
2                   tions granted and denied under this  
3                   subsection; and

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

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

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

13                  “(H) PUBLIC DEFENDER ELIGIBILITY.—

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

21                  “(ii) PETITIONERS AGE 18 AND  
22                  OLDER.—

23                  “(I) DISCRETION OF COURT.—In  
24                  the case of a petitioner who is not less  
25                  than 18 years of age, the district

1 court may, in its discretion, appoint  
2 counsel in accordance with the plan of  
3 the district court in operation under  
4 section 3006A to represent the peti-  
5 tioner for purposes of this subsection.

6 “(II) CONSIDERATIONS.—In de-  
7 termining whether to appoint counsel  
8 under subclause (I), the court shall  
9 consider—

10 “(aa) the anticipated com-  
11 plexity of the sealing hearing, in-  
12 cluding the number and type of  
13 witnesses called to advocate  
14 against the sealing of the records  
15 of the petitioner; and

16 “(bb) the potential for ad-  
17 verse testimony by a victim or a  
18 representative of the Attorney  
19 General.

20 “(c) EFFECT OF SEALING ORDER.—

21 “(1) PROTECTION FROM PERJURY LAWS.—Ex-  
22 cept as provided in paragraph (4)(C)(i), if a court  
23 orders the sealing of a juvenile record of a person  
24 under subsection (a) or (b) with respect to a juvenile  
25 nonviolent offense, the person shall not be held

1 under any provision of law to be guilty of perjury,  
2 false swearing, or making a false statement by rea-  
3 son of the person's failure to recite or acknowledge  
4 the offense and any arrest, juvenile delinquency pro-  
5 ceeding, adjudication, or other result of such pro-  
6 ceeding relating to the offense in response to an in-  
7 quiry made of the person for any purpose.

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

12 “(A) send a copy of the sealing order to  
13 each entity or person known to the court that  
14 possesses a record relating to the offense, in-  
15 cluding each—

16 “(i) law enforcement agency; and

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

19 “(B) in the sealing order, require each en-  
20 tity or person described in subparagraph (A)  
21 to—

22 “(i) seal the record; and

23 “(ii) submit a written certification to  
24 the court, under penalty of perjury, that

1 the entity or person has sealed each paper  
2 and electronic copy of the record;

3 “(C) seal each paper and electronic copy of  
4 the record in the possession of the court; and

5 “(D) after receiving a written certification  
6 from each entity or person under subparagraph  
7 (B)(ii), notify the petitioner that each entity or  
8 person described in subparagraph (A) has  
9 sealed each paper and electronic copy of the  
10 record.

11 “(3) LAW ENFORCEMENT ACCESS TO SEALED  
12 RECORDS.—

13 “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), a law enforcement agency  
15 may access a sealed juvenile record in the pos-  
16 session of the agency or another law enforce-  
17 ment agency solely—

18 “(i) to determine whether the person  
19 who is the subject of the record is a non-  
20 violent offender eligible for a first-time-of-  
21 fender diversion program;

22 “(ii) for investigatory or prosecutorial  
23 purposes within the juvenile justice system;  
24 or

1 “(iii) for a background check that re-  
2 lates to—

3 “(I) law enforcement employ-  
4 ment; or

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

7 “(aa) national security posi-  
8 tion; or

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

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

18 “(4) PROHIBITION ON DISCLOSURE.—

19 “(A) PROHIBITION.—Except as provided  
20 in subparagraph (C), it shall be unlawful to in-  
21 tentiously make or attempt to make an unau-  
22 thorized disclosure of any information from a  
23 sealed juvenile record in violation of this sec-  
24 tion.

1           “(B) PENALTY.—Any person who violates  
2           subparagraph (A) shall be fined under this title,  
3           imprisoned for not more than 1 year, or both.

4           “(C) EXCEPTIONS.—

5           “(i) BACKGROUND CHECKS.—In the  
6           case of a background check for law en-  
7           forcement employment or for any employ-  
8           ment that requires a government security  
9           clearance—

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

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

17           “(aa) may disclose the con-  
18           tents of the record; and

19           “(bb) if the agency obtains  
20           or is subject to a court order au-  
21           thorizing disclosure of the record,  
22           may disclose the record.

23           “(ii) DISCLOSURE TO ARMED  
24           FORCES.—A person, including a law en-  
25           forcement agency that possesses a juvenile

1 record sealed under this section, may dis-  
 2 close information from a juvenile record  
 3 sealed under this section to the Secretaries  
 4 of the military departments (or the Sec-  
 5 retary of Homeland Security with respect  
 6 to the Coast Guard when it is not oper-  
 7 ating as a service in the Navy) for the pur-  
 8 pose of vetting an enlistment or commis-  
 9 sion, or with regard to any member of the  
 10 Armed Forces.

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

17 “(I) criminal proceeding; or

18 “(II) juvenile delinquency pro-  
 19 ceeding.

20 “(iv) AUTHORIZATION FOR PERSON  
 21 TO DISCLOSE OWN RECORD.—A person  
 22 who is the subject of a juvenile record  
 23 sealed under this section may choose to  
 24 disclose the record.



1       “(d) LIMITATION RELATING TO SUBSEQUENT INCI-  
2 DENTS.—

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

12              “(2) AFTER PETITION GRANTED.—If, on or  
13 after the date on which a court orders the sealing  
14 of a juvenile record of a person under subsection (b),  
15 the person is convicted of a crime, adjudicated delin-  
16 quent for an act of juvenile delinquency, or engaged  
17 in active criminal court proceedings or juvenile delin-  
18 quency proceedings—

19                   “(A) the court shall—

20                           “(i) vacate the order; and

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

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

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

10 **“§ 5044. Expungement**

11 “(a) AUTOMATIC EXPUNGEMENT OF CERTAIN  
12 RECORDS.—

13 “(1) ATTORNEY GENERAL MOTION.—

14 “(A) NONVIOLENT OFFENSES COMMITTED  
15 BEFORE A PERSON TURNED 15.—If a person is  
16 adjudicated delinquent under this chapter for a  
17 juvenile nonviolent offense committed before the  
18 person attained 15 years of age, on the date on  
19 which the person attains 18 years of age, the  
20 Attorney General shall file a motion in the dis-  
21 trict court of the United States in which the  
22 person was adjudicated delinquent requesting  
23 that each juvenile record of the person that re-  
24 lates to the offense be expunged.

1           “(B) ARRESTS.—If a juvenile is arrested  
2           for a juvenile nonviolent offense for which a ju-  
3           venile delinquency proceeding is not instituted  
4           under this chapter, and for which the United  
5           States does not proceed against the juvenile as  
6           an adult in a district court of the United  
7           States, the Attorney General shall file a motion  
8           in the district court of the United States that  
9           would have had jurisdiction of the proceeding  
10          requesting that each juvenile record relating to  
11          the arrest be expunged.

12          “(C) EXPUNGEMENT ORDER.—Upon the  
13          filing of a motion in a district court of the  
14          United States with respect to a juvenile non-  
15          violent offense under subparagraph (A) or an  
16          arrest for a juvenile nonviolent offense under  
17          subparagraph (B), the court shall grant the mo-  
18          tion and order that each juvenile record relating  
19          to the offense or arrest, as applicable, be ex-  
20          punged.

21          “(2) DISMISSED CASES.—If a district court of  
22          the United States dismisses an information with re-  
23          spect to a juvenile under this chapter or finds a ju-  
24          venile not to be delinquent in a juvenile delinquency  
25          proceeding under this chapter, the court shall con-

1 currently order that each juvenile record relating to  
2 the applicable proceeding be expunged.

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

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

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

15 “(1) IN GENERAL.—A person who is adju-  
16 dicated delinquent under this chapter for a juvenile  
17 nonviolent offense committed on or after the date on  
18 which the person attained 15 years of age may peti-  
19 tion the court in which the proceeding took place to  
20 order the expungement of the juvenile record that  
21 relates to the offense unless the person—

22 “(A) has been convicted of a crime or ad-  
23 judicated delinquent for an act of juvenile delin-  
24 quency since the date of the disposition;

1           “(B) is engaged in active criminal court  
 2 proceedings or juvenile delinquency proceedings;  
 3 or

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

7           “(2) PROCEDURES.—

8           “(A) NOTIFICATION OF PROSECUTOR AND  
 9 VICTIMS.—If a person files an expungement pe-  
 10 tition with respect to a juvenile nonviolent of-  
 11 fense, the court in which the petition is filed  
 12 shall provide notice of the petition—

13                   “(i) to the Attorney General; and

14                   “(ii) upon the request of the peti-  
 15 tioner, to any other individual that the pe-  
 16 titioner determines may testify as to—

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

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

21           “(B) HEARING.—

22                   “(i) IN GENERAL.—If a person files  
 23 an expungement petition, the court shall—

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

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

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

9 “(I) PETITIONER.—The peti-  
10 tioner may testify or offer evidence at  
11 the expungement hearing in support  
12 of expungement.

13 “(II) PROSECUTOR.—The Attor-  
14 ney General may send a representa-  
15 tive to testify or offer evidence at the  
16 expungement hearing in support of or  
17 against expungement.

18 “(III) OTHER INDIVIDUALS.—An  
19 individual who receives notice under  
20 subparagraph (A)(ii) may testify or  
21 offer evidence at the expungement  
22 hearing as to the issues described in  
23 subclauses (I) and (II) of that sub-  
24 paragraph.

1           “(C) BASIS FOR DECISION.—The court  
2 shall determine whether to grant an  
3 expungement petition after considering—

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

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

9           “(iii) the best interests of the peti-  
10 tioner;

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

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

16           “(vi) the disposition of the case;

17           “(vii) the manner in which the peti-  
18 tioner participated in any court-ordered re-  
19 habilitative programming or supervised  
20 services;

21           “(viii) the length of the time period  
22 during which the petitioner has been with-  
23 out contact with any court or any law en-  
24 forcement agency;

1           “(ix) whether the petitioner has had  
2           any criminal or juvenile delinquency in-  
3           volvement since the disposition of the juve-  
4           nile delinquency proceeding; and

5           “(x) the adverse consequences the pe-  
6           titioner may suffer if the petition is not  
7           granted.

8           “(D) WAITING PERIOD AFTER DENIAL.—If  
9           the court denies an expungement petition, the  
10          petitioner may not file a new expungement peti-  
11          tion with respect to the same offense until the  
12          date that is 2 years after the date of the denial.

13          “(E) UNIVERSAL FORM.—The Director of  
14          the Administrative Office of the United States  
15          Courts shall create a universal form, available  
16          over the Internet and in paper form, that an in-  
17          dividual may use to file an expungement peti-  
18          tion.

19          “(F) NO FEE FOR INDIGENT PETI-  
20          TIONERS.—If the court determines that the pe-  
21          titioner is indigent, there shall be no cost for  
22          filing an expungement petition.

23          “(G) REPORTING.—Not later than 2 years  
24          after the date of enactment of this section, and  
25          each year thereafter, the Director of the Admin-



1           Administrative Office of the United States Courts  
2           shall issue a public report that—

3                   “(i) describes—

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

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

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

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

16           “(H) PUBLIC DEFENDER ELIGIBILITY.—

17                   “(i) PETITIONERS UNDER AGE 18.—

18                   The district court shall appoint counsel in  
19                   accordance with the plan of the district  
20                   court in operation under section 3006A to  
21                   represent a petitioner for purposes of this  
22                   subsection if the petitioner is less than 18  
23                   years of age.

24                   “(ii) PETITIONERS AGE 18 AND  
25                   OLDER.—

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

9 “(II) CONSIDERATIONS.—In de-  
 10 termining whether to appoint counsel  
 11 under subclause (I), the court shall  
 12 consider—

13 “(aa) the anticipated com-  
 14 plexity of the expungement hear-  
 15 ing, including the number and  
 16 type of witnesses called to advo-  
 17 cate against the expungement of  
 18 the records of the petitioner; and

19 “(bb) the potential for ad-  
 20 verse testimony by a victim or a  
 21 representative of the Attorney  
 22 General.

23 “(c) EFFECT OF EXPUNGED JUVENILE RECORD.—

24 “(1) PROTECTION FROM PERJURY LAWS.—Ex-  
 25 cept as provided in paragraph (4)(C), if a court or-

1       ders the expungement of a juvenile record of a per-  
2       son under subsection (a) or (b) with respect to a ju-  
3       venile nonviolent offense, the person shall not be  
4       held under any provision of law to be guilty of per-  
5       jury, false swearing, or making a false statement by  
6       reason of the person’s failure to recite or acknowl-  
7       edge the offense and any arrest, juvenile delinquency  
8       proceeding, adjudication, or other result of such pro-  
9       ceeding relating to the offense in response to an in-  
10      quiry made of the person for any purpose.

11           “(2) VERIFICATION OF EXPUNGEMENT.—If a  
12      court orders the expungement of a juvenile record  
13      under subsection (a) or (b) with respect to a juvenile  
14      nonviolent offense, the court shall—

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

19           “(i) law enforcement agency; and

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

22           “(B) in the expungement order—

23           “(i) require each entity or person de-  
24      scribed in subparagraph (A) to—

1           “(I) seal the record for 1 year  
2           and, during that 1-year period, apply  
3           paragraphs (3) and (4) of section  
4           5043(c) with respect to the record;

5           “(II) on the date that is 1 year  
6           after the date of the order, destroy  
7           the record unless a subsequent inci-  
8           dent described in subsection (d)(2) oc-  
9           curs; and

10          “(III) submit a written certifi-  
11          cation to the court, under penalty of  
12          perjury, that the entity or person has  
13          destroyed each paper and electronic  
14          copy of the record; and

15          “(ii) explain that if a subsequent inci-  
16          dent described in subsection (d)(2) occurs,  
17          the order shall be vacated and the record  
18          shall no longer be sealed;

19          “(C) on the date that is 1 year after the  
20          date of the order, destroy each paper and elec-  
21          tronic copy of the record in the possession of  
22          the court unless a subsequent incident described  
23          in subsection (d)(2) occurs; and

24          “(D) after receiving a written certification  
25          from each entity or person under subparagraph

1 (B)(i)(III), notify the petitioner that each entity  
2 or person described in subparagraph (A) has  
3 destroyed each paper and electronic copy of the  
4 record.

5 “(3) REPLY TO INQUIRIES.—On and after the  
6 date that is 1 year after the date on which a court  
7 orders the expungement of a juvenile record of a  
8 person under this section, in the case of an inquiry  
9 relating to the juvenile record, the court, each law  
10 enforcement officer, any agency that provided treat-  
11 ment or rehabilitation services to the person, and the  
12 person (except as provided in paragraph (5)) shall  
13 reply to the inquiry that no such juvenile record ex-  
14 ists.

15 “(4) CIVIL ACTIONS.—

16 “(A) IN GENERAL.—On and after the date  
17 on which a court orders the expungement of a  
18 juvenile record of a person under this section,  
19 if the person brings an action against a law en-  
20 forcement agency that arrested, or participated  
21 in the arrest of, the person for the offense to  
22 which the record relates, or against the State or  
23 political subdivision of a State of which the law  
24 enforcement agency is an agency, in which the  
25 contents of the record are relevant to the reso-

1           lution of the issues presented in the action,  
 2           there shall be a rebuttable presumption that the  
 3           defendant has a complete defense to the action.

4           “(B) SHOWING BY PLAINTIFF.—In an ac-  
 5           tion described in subparagraph (A), the plaintiff  
 6           may rebut the presumption of a complete de-  
 7           fense by showing that the contents of the ex-  
 8           punged record would not prevent the defendant  
 9           from being held liable.

10          “(C) DUTY TO TESTIFY AS TO EXISTENCE  
 11          OF RECORD.—The court in which an action de-  
 12          scribed in subparagraph (A) is filed may re-  
 13          quire the plaintiff to state under oath whether  
 14          the plaintiff had a juvenile record and whether  
 15          the record was expunged.

16          “(D) PROOF OF EXISTENCE OF JUVENILE  
 17          RECORD.—If the plaintiff in an action described  
 18          in subparagraph (A) denies the existence of a  
 19          juvenile record, the defendant may prove the ex-  
 20          istence of the record in any manner compatible  
 21          with the applicable laws of evidence.

22          “(5) CRIMINAL AND JUVENILE PRO-  
 23          CEEDINGS.—On and after the date that is 1 year  
 24          after the date on which a court orders the  
 25          expungement of a juvenile record under this section,

1 a prosecutor may disclose underlying information  
 2 from the juvenile record if the information—

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

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

7 “(i) criminal proceeding; or

8 “(ii) juvenile delinquency proceeding.

9 “(6) AUTHORIZATION FOR PERSON TO DIS-  
 10 CLOSE OWN RECORD.—A person who is the subject  
 11 of a juvenile record expunged under this section may  
 12 choose to disclose the record.

13 “(7) TREATMENT AS SEALED RECORD DURING  
 14 TRANSITION PERIOD.—During the 1-year period be-  
 15 ginning on the date on which a court orders the  
 16 expungement of a juvenile record under this section,  
 17 paragraphs (3) and (4) of section 5043(c) shall  
 18 apply with respect to the record as if the record had  
 19 been sealed under that section.

20 “(d) LIMITATION RELATING TO SUBSEQUENT INCI-  
 21 DENTS.—

22 “(1) AFTER FILING AND BEFORE PETITION  
 23 GRANTED.—If, after the date on which a person files  
 24 an expungement petition with respect to a juvenile  
 25 offense and before the court determines whether to

1 grant the petition, the person is convicted of a  
 2 crime, adjudicated delinquent for an act of juvenile  
 3 delinquency, or engaged in active criminal court pro-  
 4 ceedings or juvenile delinquency proceedings, the  
 5 court shall deny the petition.

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

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

15 “(i) vacate the order; and

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

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

22 “(e) INCLUSION OF STATE JUVENILE DELINQUENCY  
 23 ADJUDICATIONS AND PROCEEDINGS.—For purposes of  
 24 subparagraphs (A) and (B) of subsection (b)(1) and para-  
 25 graphs (1) and (2) of subsection (d), the term ‘juvenile



1 delinquency’ includes the violation of a law of a State com-  
 2 mitted by a person before attaining the age of 18 which  
 3 would have been a crime if committed by an adult.”.

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

“5043. Sealing.

“5044. Expungement.”.

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

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

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

21 (a) IN GENERAL.—Chapter 403 of title 18, United  
 22 States Code, as amended by section 211, is amended by  
 23 adding at the end the following:

1 **“§ 5045. Juvenile solitary confinement**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘covered juvenile’ means—

4 “(A) a juvenile who—

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

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

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

13 “(2) the term ‘juvenile facility’ means any facil-  
14 ity where covered juveniles are—

15 “(A) committed pursuant to an adjudica-  
16 tion of delinquency under this chapter; or

17 “(B) detained prior to disposition or con-  
18 viction; and

19 “(3) the term ‘room confinement’ means the in-  
20 voluntary placement of a covered juvenile alone in a  
21 cell, room, or other area for any reason.

22 “(b) PROHIBITION ON ROOM CONFINEMENT IN JU-  
23 VENILE FACILITIES.—

24 “(1) IN GENERAL.—The use of room confine-  
25 ment at a juvenile facility for discipline, punishment,  
26 retaliation, or any reason other than as a temporary

1 response to a covered juvenile’s behavior that poses  
 2 a serious and immediate risk of physical harm to  
 3 any individual, including the covered juvenile, is pro-  
 4 hibited.

5 “(2) JUVENILES POSING RISK OF HARM.—

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

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

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

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

19 “(ii) EXPLANATION.—If, after at-  
 20 tempting to use less restrictive techniques  
 21 as required under clause (i), a staff mem-  
 22 ber of a juvenile facility decides to place a  
 23 covered juvenile in room confinement, the  
 24 staff member shall first—

1 “(I) explain to the covered juve-  
2 nile the reasons for the room confine-  
3 ment; and

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

7 “(aa) immediately when the  
8 covered juvenile regains self-con-  
9 trol, as described in subpara-  
10 graph (B)(i); or

11 “(bb) not later than after  
12 the expiration of the time period  
13 described in subclause (I) or (II)  
14 of subparagraph (B)(ii), as appli-  
15 cable.

16 “(B) MAXIMUM PERIOD OF CONFINE-  
17 MENT.—If a covered juvenile is placed in room  
18 confinement because the covered juvenile poses  
19 a serious and immediate risk of physical harm  
20 to himself or herself, or to others, the covered  
21 juvenile shall be released—

22 “(i) immediately when the covered ju-  
23 venile has sufficiently gained control so as  
24 to no longer engage in behavior that  
25 threatens serious and immediate risk of

1 physical harm to himself or herself, or to  
 2 others; or

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

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

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

16 “(C) RISK OF HARM AFTER MAXIMUM PE-  
 17 RIOD OF CONFINEMENT.—If, after the applica-  
 18 ble maximum period of confinement under sub-  
 19 clause (I) or (II) of subparagraph (B)(ii) has  
 20 expired, a covered juvenile continues to pose a  
 21 serious and immediate risk of physical harm de-  
 22 scribed in that subclause—

23 “(i) the covered juvenile shall be  
 24 transferred to another juvenile facility or  
 25 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—

1           “(A) the term ‘applicant’ means the indi-  
2           vidual to whom a record sought to be exchanged  
3           pertains;

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

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

9                   “(ii) indicates that an individual was  
10                  arrested or criminal proceedings were insti-  
11                  tuted against an individual but does not  
12                  include the final disposition of the arrest  
13                  or of the proceedings if a final disposition  
14                  has been reached;

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

18                   “(i) an arrest by a Federal law en-  
19                   forcement officer; or

20                   “(ii) a Federal criminal proceeding;

21           “(D) the term ‘reporting jurisdiction’  
22           means any person or entity that provides a  
23           record to the Attorney General under this sec-  
24           tion; and

25           “(E) the term ‘requesting entity’—

1 “(i) means a person or entity that  
2 seeks the exchange of a record for civil  
3 purposes that include employment, hous-  
4 ing, credit, or any other type of applica-  
5 tion; and

6 “(ii) does not include a law enforce-  
7 ment or intelligence agency that seeks the  
8 exchange of a record for—

9 “(I) investigative purposes; or

10 “(II) purposes relating to law en-  
11 forcement employment.

12 “(2) INCOMPLETE OR INACCURATE RECORDS.—

13 The Attorney General shall establish and enforce  
14 procedures to ensure the prompt release of accurate  
15 records exchanged for employment-related purposes  
16 through the records system created under this sec-  
17 tion.

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

21 “(A) INACCURATE RECORD OR INFORMA-  
22 TION.—If the Attorney General determines that  
23 a record is inaccurate, the Attorney General  
24 shall promptly correct the record, including by  
25 making deletions to the record if appropriate.



1 “(B) INCOMPLETE RECORD.—

2 “(i) IN GENERAL.—If the Attorney  
3 General determines that a record is incom-  
4 plete or cannot be verified, the Attorney  
5 General—

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

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

12 “(ii) LACK OF DISPOSITION OF AR-  
13 REST.—For purposes of this subpara-  
14 graph, an incomplete record includes a  
15 record that indicates there was an arrest  
16 and does not include the disposition of the  
17 arrest.

18 “(iii) OBTAINING DISPOSITION OF AR-  
19 REST.—If the Attorney General determines  
20 that a record is an incomplete record de-  
21 scribed in clause (ii), the Attorney General  
22 shall, not later than 10 days after the date  
23 on which the requesting entity requests the  
24 exchange and before the exchange is made,

1           obtain the disposition (if any) of the ar-  
2           rest.

3           “(C) NOTIFICATION OF REPORTING JURIS-  
4           DICTION.—The Attorney General shall notify  
5           each appropriate reporting jurisdiction of any  
6           action taken under subparagraph (A) or (B).

7           “(D) OPPORTUNITY TO REVIEW RECORDS  
8           BY APPLICANT.—In connection with an ex-  
9           change of a record under this section, the At-  
10          torney General shall—

11           “(i) notify the applicant that the ap-  
12           plicant can obtain a copy of the record as  
13           described in clause (ii) if the applicant  
14           demonstrates a reasonable basis for the ap-  
15           plicant’s review of the record;

16           “(ii) provide to the applicant an op-  
17           portunity, upon request and in accordance  
18           with clause (i), to—

19           “(I) obtain a copy of the record;  
20           and

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

23           “(iii) promptly notify the requesting  
24           entity of any such challenge;

1 “(iv) not later than 30 days after the  
 2 date on which the challenge is made, com-  
 3 plete an investigation of the challenge;

4 “(v) provide to the applicant the spe-  
 5 cific findings and results of that investiga-  
 6 tion;

7 “(vi) promptly make any changes or  
 8 deletions to the records required as a re-  
 9 sult of the challenge; and

10 “(vii) report those changes to the re-  
 11 questing entity.

12 “(E) CERTAIN EXCHANGES PROHIBITED.—

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

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

21 “(II) relating to an adult or juve-  
 22 nile nonserious offense of the sort de-  
 23 scribed in section 20.32(b) of title 28,  
 24 Code of Federal Regulations, as in ef-  
 25 fect on July 1, 2009; or

1 “(III) to the extent the record is  
 2 not clearly an arrest or a disposition  
 3 of an arrest.

4 “(ii) APPLICANTS FOR SENSITIVE PO-  
 5 SITIONS.—The prohibition under clause  
 6 (i)(I) shall not apply in the case of a back-  
 7 ground check that relates to—

8 “(I) law enforcement employ-  
 9 ment; or

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

12 “(aa) national security posi-  
 13 tion; or

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

16 “(4) FEES.—The Attorney General may collect  
 17 a reasonable fee for an exchange of records for em-  
 18 ployment-related purposes through the records sys-  
 19 tem created under this section to defray the costs  
 20 associated with exchanges for those purposes, includ-  
 21 ing any costs associated with the investigation of in-  
 22 accurate or incomplete records.”.

23 (b) REGULATIONS ON REASONABLE PROCEDURES.—  
 24 Not later than 1 year after the date of enactment of this  
 25 Act, the Attorney General shall issue regulations to carry

1 out section 534(g) of title 28, United States Code, as  
2 added by subsection (a).

3 (c) REPORT.—

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

8 (2) REPORT REQUIRED.—Not later than 2  
9 years after the date of enactment of this Act, the  
10 Attorney General shall submit to Congress a report  
11 on the implementation of subsection (g) of section  
12 534 of title 28, United States Code, as added by  
13 subsection (a), that includes—

14 (A) the number of exchanges of records for  
15 employment-related purposes made with entities  
16 in each State through the records system cre-  
17 ated under such section 534;

18 (B) any prolonged failure of a Federal  
19 agency to comply with a request by the Attor-  
20 ney General for information about dispositions  
21 of arrests; and

22 (C) the numbers of successful and unsuc-  
23 cessful challenges to the accuracy and complete-

- 1           ness of records, organized by the Federal agen-
- 2           cy from which each record originated.

