

115TH CONGRESS  
1ST SESSION

# S. 1917

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

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IN THE SENATE OF THE UNITED STATES

OCTOBER 4, 2017

Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. LEE, Mr. WHITEHOUSE, Mr. GRAHAM, Mr. LEAHY, Mr. FLAKE, Mr. BOOKER, Mr. SCOTT, Mrs. FEINSTEIN, and Mr. BLUNT) 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 2017”.

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(c) of title 18, United States Code.
- Sec. 105. Application of Fair Sentencing Act.
- Sec. 106. Mandatory minimum sentences for domestic violence offenses.
- Sec. 107. 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. 108. Inventory of Federal criminal offenses.
- Sec. 109. Fentanyl.

#### 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. Promoting successful reentry.
- Sec. 208. Parole for juveniles.
- Sec. 209. Compassionate release initiative.
- Sec. 210. Juvenile sealing and expungement.
- Sec. 211. Juvenile solitary confinement.
- Sec. 212. Ensuring accuracy of Federal criminal records.

#### TITLE III—NATIONAL CRIMINAL JUSTICE COMMISSION ACT

- Sec. 301. Short title.
- Sec. 302. Findings.
- Sec. 303. Establishment of commission.
- Sec. 304. Purpose of the commission.
- Sec. 305. Review, recommendations, and report.
- Sec. 306. Membership.
- Sec. 307. Administration.
- Sec. 308. Funding.
- Sec. 309. Sunset.

## 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:

1           “(57) The term ‘serious drug felony’ means an  
2 offense described in section 924(e)(2)(A) of title 18,  
3 United States Code, for which—

4           “(A) the offender served a term of impris-  
5 onment of more than 12 months; and

6           “(B) the offender’s release from any term  
7 of imprisonment was within 15 years of the  
8 commencement of the instant offense.

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

10          “(A) an offense described in section  
11 3559(c)(2)(F) of title 18, United States Code,  
12 for which the offender served a term of impris-  
13 onment of more than 12 months; and

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

21          (2) in section 401(b)(1) (21 U.S.C.  
22 841(b)(1))—

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

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

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

23 (B) in subparagraph (B), in the flush text  
24 following clause (viii), by striking “If any per-  
25 son commits such a violation after a prior con-

1           viction for a felony drug offense has become  
2           final” and inserting the following: “If any per-  
3           son commits such a violation after a prior con-  
4           viction for a serious drug felony or serious vio-  
5           lent felony has become final”.

6           (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT  
7   ACT AMENDMENTS.—Section 1010(b) of the Controlled  
8   Substances Import and Export Act (21 U.S.C. 960(b)) is  
9   amended—

10           (1) in paragraph (1), in the flush text following  
11           subparagraph (H), by striking “If any person com-  
12           mits such a violation after a prior conviction for a  
13           felony drug offense has become final, such person  
14           shall be sentenced to a term of imprisonment of not  
15           less than 20 years” and inserting “If any person  
16           commits such a violation after a prior conviction for  
17           a serious drug felony or serious violent felony has  
18           become final, such person shall be sentenced to a  
19           term of imprisonment of not less than 15 years”;  
20           and

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

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

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

6           (2) PAST CASES.—

7           (A) SENTENCE REDUCTION.—

8           (i) IN GENERAL.—In the case of a de-  
9           fendant who, before the date of enactment  
10          of this Act, was convicted of an offense for  
11          which the penalty is amended by this sec-  
12          tion and was sentenced to a term of im-  
13          prisonment for the offense, a term of im-  
14          prisonment may be reduced only if—

15                   (I) the defendant has not been  
16                   convicted of any serious violent felony;  
17                   and

18                   (II) the sentencing court, on mo-  
19                   tion of the defendant or the Director  
20                   of the Bureau of Prisons, or on its  
21                   own motion, upon prior notice to the  
22                   Government, after considering the fac-  
23                   tors set forth in section 3553(a) of  
24                   title 18, United States Code, the na-  
25                   ture and seriousness of the danger to

1 any person, the community, or any  
2 crime victims, and the post-sentencing  
3 conduct of the defendant, finds a re-  
4 duction is consistent with this section  
5 and the amendments made by this  
6 section.

7 (ii) REQUIREMENT.—Any proceeding  
8 under this subparagraph shall be subject to  
9 section 3771 of title 18, United States  
10 Code (commonly known as the “Crime Vic-  
11 tims Rights Act”).

12 (B) REQUIREMENT.—For each motion  
13 filed under subparagraph (A), the Government  
14 shall conduct a particularized inquiry of the  
15 facts and circumstances of the original sen-  
16 tencing of the defendant in order to assess  
17 whether a reduction in sentence would be con-  
18 sistent with this section and the amendments  
19 made by this section, including a review of any  
20 prior criminal conduct or any other relevant in-  
21 formation from Federal, State, and local au-  
22 thorities.

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

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

1 (1) in subsection (f)—

2 (A) in the matter preceding paragraph

3 (1)—

4 (i) by striking “or section 1010” and  
5 inserting “, section 1010”; and

6 (ii) by inserting “, or section 70503 or  
7 70506 of title 46” after “963”;

8 (B) by striking paragraph (1) and insert-  
9 ing the following:

10 “(1) the defendant does not have—

11 “(A) more than 4 criminal history points,  
12 excluding any criminal history points resulting  
13 from a 1-point offense, as determined under the  
14 sentencing guidelines;

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

17 “(C) a prior 2-point violent offense, as de-  
18 termined under the sentencing guidelines;”;

19 (C) after paragraph (5), by inserting the  
20 following:

21 “Information disclosed by a defendant under this sub-  
22 section may not be used to enhance the sentence of the  
23 defendant unless the information relates to a violent of-  
24 fense.”; 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) DEFINITION OF VIOLENT OFFENSE.—As used  
20 in this section, the term ‘violent offense’ means a ‘crime  
21 of violence’, as defined in section 16, that is punishable  
22 by imprisonment.”.

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

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

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

6 “(i) LIMITATION ON APPLICABILITY OF CERTAIN  
7 STATUTORY MINIMUMS.—Notwithstanding any other pro-  
8 vision of law, in the case of a conviction under section 401  
9 or 406 of the Controlled Substances Act (21 U.S.C. 841  
10 and 846), section 1010 or 1013 of the Controlled Sub-  
11 stances Import and Export Act (21 U.S.C. 960 and 963),  
12 or section 70503 or 70506 of title 46, for which the statu-  
13 tory minimum term of imprisonment is 10 years, the court  
14 may impose a sentence as if the statutory minimum term  
15 of imprisonment was 5 years, if the court finds at sen-  
16 tencing, after the Government has been afforded the op-  
17 portunity to make a recommendation, that—

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

24 “(2) the defendant did not use violence or cred-  
25 ible threats of violence or possess a firearm or other  
26 dangerous weapon (or induce another participant to

1 do so) in connection with the offense, and the of-  
2 fense did not result in death or serious bodily injury  
3 to any person;

4 “(3) the defendant was not an organizer, lead-  
5 er, manager, or supervisor of other participants in  
6 the offense, as determined under the sentencing  
7 guidelines;

8 “(4) the defendant did not act as an importer,  
9 exporter, or high-level distributor or supplier, a  
10 wholesaler, or a manufacturer of the controlled sub-  
11 stances involved in the offense or engage in a con-  
12 tinuing criminal enterprise, as defined in section 408  
13 of the Controlled Substances Act (21 U.S.C. 848),  
14 unless the defendant was a minor or minimal partic-  
15 ipant, as determined under the sentencing guide-  
16 lines;

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

20 “(6) not later than the time of the sentencing  
21 hearing, the defendant has truthfully provided to the  
22 Government all information and evidence the defend-  
23 ant has concerning the offense or offenses that were  
24 part of the same course of conduct or of a common  
25 scheme or plan, but the fact that the defendant has

1 no relevant or useful other information to provide or  
2 that the Government is already aware of the infor-  
3 mation shall not preclude a determination by the  
4 court that the defendant has complied with this re-  
5 quirement.

6 Information disclosed by a defendant under this sub-  
7 section may not be used to enhance the sentence of the  
8 defendant unless the information relates to a violent of-  
9 fense.

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

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

14 “(A) means a defendant who imported, ex-  
15 ported, or otherwise distributed or supplied  
16 large quantities of a controlled substance to  
17 other drug distributors; and

18 “(B) does not include a defendant whose  
19 role was limited to transporting drugs or money  
20 at the direction of others;

21 “(2) the term ‘manufacturer’ means a defend-  
22 ant who grew, produced, or manufactured a con-  
23 trolled substance and was the principal owner of  
24 such controlled substance; and

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

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

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

9           (a) **IN GENERAL.**—Section 924(c)(1)(C) of title 18,  
10 United States Code, is amended, in the matter preceding  
11 clause (i), by striking “second or subsequent conviction  
12 under this subsection” and inserting “violation of this sub-  
13 section that occurs after a prior conviction under this sub-  
14 section has become final”.

15           (b) **APPLICABILITY TO PENDING AND PAST CASES.**—

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

21                   (2) **PAST CASES.**—

22   (A) **SENTENCE REDUCTION.**—

23   (i) **IN GENERAL.**—In the case of a de-  
24 fendant who, before the date of enactment  
25 of this Act, was convicted of an offense for

1           which the penalty is amended by this sec-  
2           tion and was sentenced to a term of im-  
3           prisonment for the offense, a term of im-  
4           prisonment may be reduced only if—

5                   (I) the instant violation was for a  
6                   drug trafficking offense that did not  
7                   involve a violation of clause (ii) or (iii)  
8                   of section 924(c)(1)(A) of title 18,  
9                   United States Code;

10                   (II) the defendant has not other-  
11                   wise been convicted of any serious vio-  
12                   lent felony; and

13                   (III) the sentencing court, on  
14                   motion of the defendant or the Direc-  
15                   tor of the Bureau of Prisons, or on its  
16                   own motion, upon prior notice to the  
17                   Government, after considering the fac-  
18                   tors set forth in section 3553(a) of  
19                   title 18, United States Code, the na-  
20                   ture and seriousness of the danger to  
21                   any person, the community, or any  
22                   crime victims, and the post-sentencing  
23                   conduct of the defendant, finds a re-  
24                   duction is consistent with this section

1 and the amendments made by this  
2 section.

3 (ii) REQUIREMENT.—Any proceeding  
4 under this subparagraph shall be subject to  
5 section 3771 of title 18, United States  
6 Code (commonly known as the “Crime Vic-  
7 tims’ Rights Act”).

8 (B) REQUIREMENT.—For each motion  
9 filed under subparagraph (A), the Government  
10 shall conduct a particularized inquiry of the  
11 facts and circumstances of the original sen-  
12 tencing of the defendant in order to assess  
13 whether a reduction in sentence would be con-  
14 sistent with this section and the amendments  
15 made by this section, including a review of any  
16 prior criminal conduct or any other relevant in-  
17 formation from Federal, State, and local au-  
18 thorities.

19 **SEC. 105. APPLICATION OF FAIR SENTENCING ACT.**

20 (a) DEFINITION OF COVERED OFFENSE.—In this  
21 section, the term “covered offense” means a violation of  
22 a Federal criminal statute, the statutory penalties for  
23 which were modified by section 2 or 3 of the Fair Sen-  
24 tencing Act of 2010 (Public Law 111–220; 124 Stat.  
25 2372), that was committed before August 3, 2010.

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

9 (c) LIMITATIONS.—No court shall entertain a motion  
10 made under this section to reduce a sentence if the sen-  
11 tence was previously imposed or previously reduced in ac-  
12 cordance with the amendments made by sections 2 and  
13 3 of the Fair Sentencing Act of 2010 (Public Law 111–  
14 220; 124 Stat. 2372) or if a previous motion made under  
15 this section to reduce the sentence was, after the date of  
16 enactment of this Act, denied after a complete review of  
17 the motion on the merits. Nothing in this section shall  
18 be construed to require a court to reduce any sentence  
19 pursuant to this section.

20 **SEC. 106. MANDATORY MINIMUM SENTENCES FOR DOMES-**  
21 **TIC VIOLENCE OFFENSES.**

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

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



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

4           “(B) in the case of a violation of section  
5           2261A, for life or any term of years;

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

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

10          “(B) in the case of a violation of section  
11          2261A, for not more than 20 years;

12          “(3) if serious bodily injury to the victim results  
13          or if the offender uses a dangerous weapon during  
14          the offense—

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

17          “(B) in the case of a violation of section  
18          2261A, for not more than 10 years;”.

19 **SEC. 107. MINIMUM TERM OF IMPRISONMENT FOR CER-**  
20 **TAIN ACTS RELATING TO THE PROVISION OF**  
21 **CONTROLLED GOODS OR SERVICES TO TER-**  
22 **RORISTS OR PROLIFERATORS OF WEAPONS**  
23 **OF MASS DESTRUCTION.**

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

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

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

5           “(d) MINIMUM TERM OF IMPRISONMENT FOR CER-  
6 TAIN ACTS RELATING TO THE PROVISION OF CON-  
7 TROLLED GOODS OR SERVICES TO TERRORISTS OR  
8 PROLIFERATORS OF WEAPONS OF MASS DESTRUC-  
9 TION.—

10           “(1) IN GENERAL.—A person who willfully com-  
11 mits, willfully attempts to commit, or willfully con-  
12 spires to commit, solicits the commission of, or aids  
13 or abets in the commission of, an unlawful act de-  
14 scribed in paragraph (2) shall, upon conviction, be  
15 imprisoned for a term of not less than 5 years. Not-  
16 withstanding any other provision of law, a court  
17 shall not place on probation any person sentenced  
18 under this subsection.

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

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

24           “(i) a state sponsor of terrorism;

1           “(ii) an organization designated as a  
2           foreign terrorist organization under section  
3           219(a) of the Immigration and Nationality  
4           Act (8 U.S.C. 1189(a)); or

5           “(iii) a person on the list of specially  
6           designated nationals and blocked persons  
7           maintained by the Office of Foreign Assets  
8           Control of the Department of the Treas-  
9           ury;

10          “(B) the provision of goods or services,  
11          without a license or other written approval of  
12          the United States Government, to any person in  
13          connection with a program or effort of a foreign  
14          country or foreign person to develop weapons of  
15          mass destruction; or

16          “(C) the provision of defense articles or de-  
17          fense services, without a license or other written  
18          approval of the Department of State, to, or for  
19          the use of, a country subject to an arms embar-  
20          go by the United States.

21          “(3) DEFINITIONS.—In this subsection:

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

1           “(i) the United States Munitions List  
2 maintained pursuant to part 121 of title  
3 22, Code of Federal Regulations;

4           “(ii) the Commerce Control List  
5 maintained pursuant to part 774 of title  
6 15, Code of Federal Regulations; or

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

10           “(B) COUNTRY SUBJECT TO AN ARMS EM-  
11 BARGO.—The term ‘country subject to an arms  
12 embargo’ means any foreign country listed in  
13 section 126.1 of title 22, Code of Federal Regu-  
14 lations (or any corresponding similar regulation  
15 or ruling), for which—

16           “(i) an embargo or prohibition exists  
17 on the export of defense articles or defense  
18 services; or

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

23           “(C) DEFENSE ARTICLE; DEFENSE SERV-  
24 ICE.—The terms ‘defense article’ and ‘defense  
25 service’ have the meanings given those terms in

1 section 47 of the Arms Export Control Act (22  
2 U.S.C. 2794).

3 “(D) STATE SPONSOR OF TERRORISM.—  
4 The term ‘state sponsor of terrorism’ means  
5 any foreign country, or political subdivision,  
6 agency, or instrumentality of a foreign country,  
7 if the Secretary of State has determined that  
8 the government of the country has repeatedly  
9 provided support for acts of international ter-  
10 rorism pursuant to—

11 “(i) section 6(j)(1)(A) of the Export  
12 Administration Act of 1979 (50 U.S.C.  
13 App. 2405(j)(1)(A)) (as in effect pursuant  
14 to this Act);

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

17 “(iii) section 620A(a) of the Foreign  
18 Assistance Act of 1961 (22 U.S.C.  
19 2371(a)); or

20 “(iv) any other provision of law.

21 “(E) WEAPON OF MASS DESTRUCTION.—  
22 The term ‘weapon of mass destruction’ has the  
23 meaning given that term in section 2332a of  
24 title 18, United States Code.”.

1 **SEC. 108. INVENTORY OF FEDERAL CRIMINAL OFFENSES.**

2 (a) DEFINITIONS.—In this section—

3 (1) the term “criminal regulatory offense”  
4 means a Federal regulation that is enforceable by a  
5 criminal penalty;

6 (2) the term “criminal statutory offense”  
7 means a criminal offense under a Federal statute;  
8 and

9 (3) the term “Executive agency”—

10 (A) has the meaning given the term in sec-  
11 tion 105 of title 5, United States Code; and

12 (B) includes the United States Postal  
13 Service and the Postal Regulatory Commission.

14 (b) REPORT ON CRIMINAL STATUTORY OFFENSES.—

15 Not later than 1 year after the date of enactment of this  
16 Act, the Attorney General shall submit to the Committee  
17 on the Judiciary of the Senate and the Committee on the  
18 Judiciary of the House of Representatives a report, which  
19 shall include—

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

23 (2) for each criminal statutory offense listed  
24 under paragraph (1) and organized by Federal dis-  
25 trict where applicable—

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

3 (B) the number of violations of the crimi-  
4 nal statutory offense referred to the Depart-  
5 ment of Justice by an Executive agency for  
6 prosecution, including referrals from investiga-  
7 tive agencies of the Department of Justice, in  
8 each of the years during the 15-year period pre-  
9 ceeding the date of enactment of this Act;

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

15 (D) the number of prosecutions for the  
16 criminal statutory offense brought by the De-  
17 partment of Justice that have resulted in con-  
18 viction for each year of the 15-year period pre-  
19 ceeding the date of enactment of this Act;

20 (E) the number of convictions for the  
21 criminal statutory offense that have resulted in  
22 imprisonment for each year of the 15-year pe-  
23 riod preceding the date of enactment of this  
24 Act;

1 (F) the average length of sentence of im-  
2 prisonment imposed as a result of conviction for  
3 the criminal statutory offense during each year  
4 of the 15-year period preceding the date of en-  
5 actment of this Act;

6 (G) the mens rea requirement for the  
7 criminal statutory offense; and

8 (H) the number of prosecutions for the  
9 criminal statutory offense in which the Depart-  
10 ment of Justice was not required to prove mens  
11 rea as a component of the offense.

12 (c) REPORT ON CRIMINAL REGULATORY OF-  
13 FENSES.—Not later than 1 year after the date of enact-  
14 ment of this Act, the head of each Executive agency shall  
15 submit to the Committee on the Judiciary of the Senate  
16 and the Committee on the Judiciary of the House of Rep-  
17 resentatives a report, which shall include—

18 (1) a list of all criminal regulatory offenses en-  
19 forceable by the agency; and

20 (2) for each criminal regulatory offense listed  
21 under paragraph (1)—

22 (A) the potential criminal penalty for a  
23 violation of the criminal regulatory offense;

24 (B) the number of violations of the crimi-  
25 nal regulatory offense referred to the Depart-



1           ment of Justice for prosecution in each of the  
2           years during the 15-year period preceding the  
3           date of enactment of this Act;

4           (C) the number of prosecutions for the  
5           criminal regulatory offense brought by the De-  
6           partment of Justice each year for the 15-year  
7           period preceding the date of enactment of this  
8           Act;

9           (D) the number of prosecutions for the  
10          criminal regulatory offense brought by the De-  
11          partment of Justice that have resulted in con-  
12          viction for each year of the 15-year period pre-  
13          ceding the date of enactment of this Act;

14          (E) the number of convictions for the  
15          criminal regulatory offense that have resulted in  
16          imprisonment for each year of the 15-year pe-  
17          riod preceding the date of enactment of this  
18          Act;

19          (F) the average length of sentence of im-  
20          prisonment imposed as a result of conviction for  
21          the criminal regulatory offense during each year  
22          of the 15-year period preceding the date of en-  
23          actment of this Act;

24          (G) the mens rea requirement for the  
25          criminal regulatory offense; and

1           (H) the number of prosecutions for the  
2           criminal regulatory offense in which the De-  
3           partment of Justice was not required to prove  
4           mens rea as a component of the offense.

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

7           (1) the Attorney General shall establish a pub-  
8           lically accessible index of each criminal statutory of-  
9           fense listed in the report required under subsection  
10          (b) and make the index available and freely acces-  
11          sible on the website of the Department of Justice;  
12          and

13          (2) the head of each Executive agency shall es-  
14          tablish a publically accessible index of each criminal  
15          regulatory offense listed in the report required under  
16          subsection (c) and make the index available and  
17          freely accessible on the website of the agency.

18          (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
19          tion shall be construed to require or authorize appropria-  
20          tions.

21 **SEC. 109. FENTANYL.**

22          (a) CONTROLLED SUBSTANCES ACT AMENDMENT.—  
23          Section 401(b) of the Controlled Substances Act (21  
24          U.S.C. 841(b)) is amended by adding at the end the fol-  
25          lowing:

1       “(8)(A) In the case of a violation of subsection (a),  
2 if the mixture or substance containing a detectable  
3 amount of heroin also contains a detectable amount of N-  
4 phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide  
5 or any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-  
6 piperidinyl] propanamide, then a court shall—

7               “(i) not impose a term of probation; and

8               “(ii) in addition to the term of punishment for  
9 the violation of this section, impose a term of impris-  
10 onment not to exceed 5 years.

11       “(B) A term of imprisonment imposed on a person  
12 under subparagraph (A)(ii) may not run concurrently with  
13 any term of imprisonment imposed on the person under  
14 any other provision of law.

15       “(9)(A) In the case of a violation of subsection (a),  
16 if the mixture or substance containing a detectable  
17 amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]  
18 propanamide or any analogue of N-phenyl-N-[1-(2-  
19 phenylethyl)-4-piperidinyl] propanamide was represented  
20 to be or sold as heroin, then a court shall—

21               “(i) not impose a term of probation; and

22               “(ii) in addition to the term of punishment for  
23 the violation of this section, impose a term of impris-  
24 onment not to exceed 5 years.

1 “(B) A term of imprisonment imposed on a person  
2 under subparagraph (A)(ii) may not run concurrently with  
3 any term of imprisonment imposed on the person under  
4 any other provision of law.”.

5 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT  
6 ACT AMENDMENT.—Section 1010(b) of the Controlled  
7 Substances Import and Export Act (21 U.S.C. 960(b)) is  
8 amended by adding at the end the following:

9 “(8)(A) In the case of a violation of subsection (a),  
10 if the mixture or substance containing a detectable  
11 amount of heroin also contains a detectable amount of N-  
12 phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide  
13 or any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-  
14 piperidinyl] propanamide, then a court shall—

15 “(i) not impose a term of probation; and

16 “(ii) in addition to the term of punishment for  
17 the violation of this section, impose a term of impris-  
18 onment not to exceed 5 years.

19 “(B) A term of imprisonment imposed on a person  
20 under subparagraph (A)(ii) may not run concurrently with  
21 any term of imprisonment imposed on the person under  
22 any other provision of law.

23 “(9)(A) In the case of a violation of subsection (a),  
24 if the mixture or substance containing a detectable  
25 amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]

1 propanamide or any analogue of N-phenyl-N-[1-(2-  
 2 phenylethyl)-4-piperidinyl] propanamide was represented  
 3 to be or sold as heroin, then a court shall—

4 “(i) not impose a term of probation; and

5 “(ii) in addition to the term of punishment for  
 6 the violation of this section, impose a term of impris-  
 7 onment not to exceed 5 years.

8 “(B) A term of imprisonment imposed on a person  
 9 under subparagraph (A)(ii) may not run concurrently with  
 10 any term of imprisonment imposed on the person under  
 11 any other provision of law.”.

## 12 **TITLE II—CORRECTIONS ACT**

### 13 **SEC. 201. SHORT TITLE.**

14 This title may be cited as the “Corrections Oversight,  
 15 Recidivism Reduction, and Eliminating Costs for Tax-  
 16 payers In Our National System Act of 2017” or the  
 17 “CORRECTIONS Act”.

### 18 **SEC. 202. RECIDIVISM REDUCTION PROGRAMMING AND** 19 **PRODUCTIVE ACTIVITIES.**

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

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

1 including programming and activities offered in State  
2 correctional institutions, which shall include a review  
3 of research on the effectiveness of such programs;

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

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

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

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

24 “(1) IN GENERAL.—The Director of the Bureau  
25 of Prisons, shall, subject to the availability of appro-

1        priations, make available to all eligible prisoners ap-  
2        propriate recidivism reduction programming or pro-  
3        ductive activities, including prison jobs, in accord-  
4        ance with paragraph (2).

5            “(2) EXPANSION PERIOD.—

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

13            “(B) CERTIFICATION.—

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

23            “(ii) CONSIDERATIONS.—In deter-  
24        mining whether or not to issue a certifi-  
25        cation under clause (i), the National Insti-

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

10           “(3) RECIDIVISM REDUCTION PARTNERSHIPS.—

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

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

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

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

13                   “(iii) employ prisoners; or

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

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

21           “(4) ASSIGNMENTS.—In assigning prisoners to  
22           recidivism reduction programming and productive  
23           activities, the Director of the Bureau of Prisons  
24           shall use the Post-Sentencing Risk and Needs As-

1        assessment System described in section 3621A and  
2        shall ensure that—

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

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

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

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

24               “(5) MENTORING SERVICES.—Any person who  
25               provided mentoring services to a prisoner while the

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

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

15 “(A) TIME CREDITS.—

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

1           riod of 30 days of successful completion of  
2           such program or activity.

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

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

10                   “(II) during official detention be-  
11                   fore the date on which the prisoner’s  
12                   sentence commences under section  
13                   3585(a).

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

1           mined under the sentencing guidelines, at  
2           the time of sentencing, unless the court de-  
3           termines in writing at sentencing that the  
4           defendant’s criminal history category sub-  
5           stantially overrepresents the seriousness of  
6           the defendant’s criminal history or the  
7           likelihood that the defendant will commit  
8           other crimes and exercises its authority to  
9           lower the defendant’s criminal history cat-  
10          egory. No credit shall be awarded under  
11          this subparagraph to any prisoner serving  
12          a sentence of imprisonment for conviction  
13          for any of the following offenses:

14                   “(I) A Federal crime of ter-  
15                   rorism, as defined under section  
16                   2332b(g)(5).

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

19                   “(III) A Federal sex offense, as  
20                   described in section 111 of the Sex  
21                   Offender Registration and Notifica-  
22                   tion Act (34 U.S.C. 20911).

23                   “(IV) Engaging in a continuing  
24                   criminal enterprise, as defined in sec-

1           tion 408 of the Controlled Substances  
2           Act (21 U.S.C. 848).

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

7           “(VI) A Federal crime involving  
8           child exploitation, as defined in sec-  
9           tion 2 of the PROTECT Our Children  
10          Act of 2008 (34 U.S.C. 21101).

11          “(VII) A violation of—

12           “(aa) chapter 11 (relating to  
13           bribery, graft, and conflicts of in-  
14           terest);

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

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

19           “(dd) chapter 63 involving a  
20           scheme or artifice to deprive an-  
21           other of the intangible right of  
22           honest services;

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

1                   “(ff) chapter 95 or 96 (re-  
2 relating to racketeering and rack-  
3 eteer influenced and corrupt or-  
4 ganizations); or

5                   “(gg) chapter 110 (relating  
6 to sexual exploitation and other  
7 abuse of children).

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

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

1 privileges for use with family, close friends,  
2 mentors, and religious leaders.

3 “(C) PENALTIES.—The Bureau of Prisons  
4 may reduce rewards a prisoner has previously  
5 earned under subparagraph (A) for prisoners  
6 who violate the rules of the penal or correc-  
7 tional facility in which the prisoner is impris-  
8 oned, a recidivism reduction program, or a pro-  
9 ductive activity.

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

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

22 “(A) shall be considered to have success-  
23 fully completed a recidivism reduction program  
24 or productive activity, if the Bureau of Prisons  
25 determines that the prisoner—



1           “(i) regularly attended and partici-  
2           pated in the recidivism reduction program  
3           or productive activity;

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

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

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

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

1           withstanding that the prisoner continues to par-  
2           ticipate in such program or activity.

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

4                   “(A) ELIGIBLE PRISONER.—The term ‘eli-  
5           gible prisoner’ means—

6                           “(i) an individual who has been sen-  
7                           tenced to a term of imprisonment pursuant  
8                           to a conviction for a Federal criminal of-  
9                           fense; or

10                           “(ii) an individual within the custody  
11                           of the Bureau of Prisons, including an in-  
12                           dividual in a Bureau of Prisons contracted  
13                           facility.

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

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

23                           “(ii) may include the delivery of the  
24                           activities described in subparagraph  
25                           (C)(i)(II) to other prisoners.

1                   “(C) RECIDIVISM REDUCTION PROGRAM.—

2           The term ‘recidivism reduction program’

3           means—

4                   “(i) a group or individual activity

5           that—

6                           “(I) has been certified to reduce

7                   recidivism or promote successful re-

8                   entry; and

9                           “(II) may include—

10                                   “(aa) classes on social learn-

11                                   ing and life skills;

12                                   “(bb) classes on morals or

13                                   ethics;

14                                   “(cc) academic classes;

15                                   “(dd) cognitive behavioral

16                                   treatment;

17                                   “(ee) mentoring;

18                                   “(ff) occupational and voca-

19                                   tional training;

20                                   “(gg) faith-based classes or

21                                   services;

22                                   “(hh) domestic violence edu-

23                                   cation and deterrence program-

24                                   ming;

1                   “(ii) victim-impact classes or  
2                   other restorative justice pro-  
3                   grams;

4                   “(jj) industry-sponsored  
5                   workforce development, edu-  
6                   cation, or training; and

7                   “(kk) a prison job; and

8                   “(ii) shall include—

9                   “(I) a productive activity; and

10                  “(II) recovery programming.

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

20                  (e) NO CONSIDERATION OF EARNED TIME CREDIT  
21                  ELIGIBILITY DURING SENTENCING.—

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

1           (A) by redesignating subsections (b)  
2 through (j) as subsections (e) through (k), re-  
3 spectively;

4           (B) in subsection (e)(3), as so redesign-  
5 ated, by striking “subsection (c)” and insert-  
6 ing “subsection (d)”; and

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

9           “(b) In imposing a sentence, the court shall not con-  
10 sider the defendant’s eligibility or potential eligibility for  
11 credit under section 3621(e), 3621(h), or 3624(b) or any  
12 similar provision of law, but shall not be prohibited from  
13 informing the defendant of the existence of such credits  
14 or related programs.”.

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

18           (A) in subsection (e)(3)—

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

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

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 para-  
22 graphs (3) and (4) of subsection (a);

23 “(B) develop a suitable reassessment tool  
24 to perform the reassessments and updates de-  
25 scribed in subsection (a)(5); 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 and  
18 criminogenic needs of each prisoner using the As-  
19 sessment System.

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

23 “(A) not less frequently than once each  
24 year for any prisoner whose anticipated release  
25 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.—  
24 Notwithstanding the 10 percent limit described in  
25 paragraph (1) and in addition to any time spent in

1 prerelease custody pursuant to paragraph (1), a  
2 prisoner shall spend an additional portion of the  
3 final months of the prisoner’s sentence, equivalent to  
4 the amount of time credit the prisoner has earned  
5 pursuant to section 3621(h)(6)(A), in prerelease cus-  
6 tody, if—

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

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

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

1           (3) by redesignating paragraphs (4) through  
2 (6) as paragraphs (9) through (11), respectively;

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

5           “(4) HOME CONFINEMENT.—

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

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

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

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

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



1                   “(III) participation in community  
2                   service;

3                   “(IV) crime victim restoration ac-  
4                   tivities;

5                   “(V) medical treatment; or

6                   “(VI) religious activities; and

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

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

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

24                  “(5) COMMUNITY SUPERVISION.—

1           “(A) TIME CREDIT LESS THAN 36  
2 MONTHS.—Any prisoner described in subpara-  
3 graph (D) who has earned time credit of less  
4 than 36 months pursuant to section  
5 3621(h)(6)(A) shall be eligible to serve no more  
6 than one-half of the amount of such credit on  
7 community supervision, if the prisoner satisfies  
8 the conditions set forth in subparagraph (C).

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

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

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

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

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

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

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

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

20          “(6) VIOLATIONS.—If a prisoner violates a con-  
21          dition of the prisoner’s prerelease custody, the Di-  
22          rector of the Bureau of Prisons may revoke the pris-  
23          oner’s prerelease custody and require the prisoner to  
24          serve the remainder of the prisoner’s term of incar-  
25          ceration, or any portion thereof, in prison, or impose

1 additional conditions on the prisoner's prerelease  
2 custody as the Director of the Bureau of Prisons  
3 deems appropriate. If the violation is nontechnical in  
4 nature, the Director of the Bureau of Prisons shall  
5 revoke the prisoner's prerelease custody.

6 “(7) CREDIT FOR PRERELEASE CUSTODY.—  
7 Upon completion of a prisoner's sentence, any term  
8 of supervised release imposed on the prisoner shall  
9 be reduced by the amount of time the prisoner  
10 served in prerelease custody pursuant to paragraph  
11 (2).

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

1 to prerelease custody and shall provide for the trans-  
2 fer of monetary sums necessary to comply with such  
3 requirements. United States Probation and Pretrial  
4 Services shall, to the greatest extent practicable,  
5 offer assistance to any prisoner not under its super-  
6 vision during prerelease custody under this sub-  
7 section.”; and

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

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

24 “(13) ALIENS SUBJECT TO DEPORTATION.—If  
25 the prisoner is an alien whose deportation was or-

1       dered as a condition of supervised release or who is  
2       subject to a detainer filed by Immigration and Cus-  
3       toms Enforcement for the purposes of determining  
4       the alien's deportability, the Director of the Bureau  
5       of Prisons shall, upon the prisoner's transfer to  
6       prerelease custody pursuant to paragraphs (1) and  
7       (2), deliver the prisoner to United States Immigra-  
8       tion and Customs Enforcement for the purpose of  
9       conducting proceedings relating to the alien's depor-  
10      tation.

11           “(14) NOTICE OF TRANSFER TO PRERELEASE  
12      CUSTODY.—

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

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

1           “(C) CONTENTS OF NOTICE.—The notice  
2 required under subparagraph (A) shall include  
3 the following information:

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

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

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

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

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

13          “(D) HEARING.—

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

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

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

3                   “(I) shall set forth the basis for  
4                   the Government’s request that the  
5                   prisoner’s transfer be denied or modi-  
6                   fied pursuant to subparagraph (E);  
7                   and

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

11                  “(iv) JUSTICE DEPARTMENT REVIEW  
12                  OF TRANSFERS TO PRERELEASE CUS-  
13                  TODY.—If the Department of Justice does  
14                  not seek a hearing under this subpara-  
15                  graph to deny or modify a prisoner’s trans-  
16                  fer to prerelease custody, the Department  
17                  of Justice prior to such transfer shall  
18                  make a determination to that effect in  
19                  writing, including the reasons for that de-  
20                  termination.

21                  “(E) DETERMINATION OF THE COURT.—  
22                  The court may deny the transfer of the prisoner  
23                  to prerelease custody or modify the terms of  
24                  such transfer, if, after conducting a hearing  
25                  pursuant to subparagraph (D), the court finds



1 in writing, by a preponderance of the evidence,  
2 that the transfer of the prisoner is inconsistent  
3 with the factors specified in paragraphs (2),  
4 (6), and (7) of section 3553(a).”.

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

8 **SEC. 205. REPORTS.**

9 (a) ANNUAL REPORTS.—

10 (1) REPORTS.—Not later than 1 year after the  
11 date of enactment of this Act, and each year there-  
12 after, the Attorney General, in coordination with the  
13 Comptroller General of the United States, shall sub-  
14 mit to the appropriate committees of Congress a re-  
15 port that contains the following:

16 (A) A summary of the activities and ac-  
17 complishments of the Attorney General in car-  
18 rying out this title and the amendments made  
19 by this title.

20 (B) An assessment of the status and use  
21 of the Post-Sentencing Risk and Needs Assess-  
22 ment System developed under section 3621A of  
23 title 18, United States Code, as added by this  
24 title, by the Bureau of Prisons, including the  
25 number of prisoners classified at each risk level

1 under the Post-Sentencing Risk and Needs As-  
2 sessment System at each facility of the Bureau  
3 of Prisons.

4 (C) A summary and assessment of the  
5 types and effectiveness of the recidivism reduc-  
6 tion programs and productive activities in facili-  
7 ties operated by the Bureau of Prisons, includ-  
8 ing—

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

12 (ii) the capacity of each program and  
13 activity at each facility, including the num-  
14 ber of prisoners along with the risk level of  
15 each prisoner enrolled in each program and  
16 activity; and

17 (iii) identification of any problems or  
18 shortages in capacity of the programs and  
19 activities, and how those problems or  
20 shortages in capacity should be remedied.

21 (D) An assessment of budgetary savings  
22 resulting from this Act and the amendments  
23 made by this Act, including—

24 (i) a summary of the amount of sav-  
25 ings resulting from the transfer of pris-

1 oners into prerelease custody under this  
2 title and the amendments made by this  
3 title, including savings resulting from the  
4 avoidance or deferral of future construc-  
5 tion, acquisition, or operations costs;

6 (ii) a summary of the amount of sav-  
7 ings resulting from any decrease in recidi-  
8 vism that may be attributed to the imple-  
9 mentation of the Post-Sentencing Risk and  
10 Needs Assessment System or the increase  
11 in recidivism reduction programs and pro-  
12 ductive activities required by this title and  
13 the amendments made by this title;

14 (iii) a strategy to reinvest the savings  
15 described in clauses (i) and (ii) in other—

16 (I) Federal, State, and local law  
17 enforcement activities; and

18 (II) expansions of recidivism re-  
19 duction programs and productive ac-  
20 tivities in the Bureau of Prisons; and

21 (iv) a description of how the reduced  
22 expenditures on Federal corrections and  
23 the budgetary savings resulting from this  
24 Act, and the amendments made by this

1 Act, are currently being used and will be  
2 used to—

3 (I) increase investment in law en-  
4 forcement and crime prevention to  
5 combat gangs of national significance  
6 and high-level drug traffickers  
7 through the High Intensity Drug  
8 Trafficking Areas Program and other  
9 task forces;

10 (II) hire, train, and equip law en-  
11 forcement officers and prosecutors;  
12 and

13 (III) promote crime reduction  
14 programs using evidence-based prac-  
15 tices and strategic planning to help  
16 reduce crime and criminal recidivism.

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

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

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

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

6                   (B) COVERED AMOUNT.—For purposes of  
7                   this paragraph, the term “covered amount”  
8                   means, using the most recent report submitted  
9                   under paragraph (1), the amount equal to the  
10                  sum of—

11                   (i) the amount described in clause (i)  
12                   of paragraph (1)(D) for the fiscal year;  
13                   and

14                   (ii) the amount described in clause (ii)  
15                   of paragraph (1)(D) for the fiscal year.

16                   (C) USE OF FUNDS.—The funds described  
17                   in subparagraph (A)(ii) shall be used, con-  
18                   sistent with clause (iii) of paragraph (1)(D), to  
19                   achieve each of the following objectives:

20                   (i) Ensure that, not later than 6 years  
21                   after the date of enactment of this Act, re-  
22                   cidivism reduction programs or productive  
23                   activities are available to all eligible pris-  
24                   oners, as defined in section 3621(h)(8) of

1 title 18, United States Code, as added by  
2 this title.

3 (ii) Ensure compliance with the re-  
4 source needs of United States Probation  
5 and Pretrial Services resulting from an  
6 agreement under section 3624(c)(8) of title  
7 18, United States Code, as added by this  
8 title.

9 (iii) Supplement funding for programs  
10 that increase public safety by providing re-  
11 sources to State and local law enforcement  
12 officials, including for the adoption of in-  
13 novative technologies and information  
14 sharing capabilities.

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

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

1           (2) an assessment of the feasibility of expand-  
2           ing those programs, consistent with the strategy re-  
3           quired under paragraph (1), so that, not later than  
4           5 years after the date of enactment of this Act, not  
5           less than 75 percent of eligible low-risk offenders  
6           have the opportunity to participate in a prison work  
7           program for not less than 20 hours per week; and

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

11          (c) REPORTING ON RECIDIVISM RATES.—

12           (1) IN GENERAL.—Beginning 1 year after the  
13           date of enactment of this Act, and each year there-  
14           after, the Attorney General, in consultation with the  
15           Administrative Office of the United States Courts,  
16           shall report to the appropriate committees of Con-  
17           gress on rates of recidivism among individuals who  
18           have been released from Federal prison and who are  
19           under judicial supervision.

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

25           (A) Primary offense charged.

1           (B) Length of sentence imposed and  
2 served.

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

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

7           (E) The prisoner's assessed risk of recidi-  
8 vism.

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

14           (d) REPORTING ON EXCLUDED PRISONERS.—

15           (1) ATTORNEY GENERAL REPORT.—Not later  
16 than 8 years after the date of enactment of this Act,  
17 the Attorney General shall submit to the appropriate  
18 committees of Congress a report on the effectiveness  
19 of recidivism reduction programs and productive ac-  
20 tivities offered to prisoners—

21           (A) described in section 3621(h)(6)(A)(iii)  
22 of title 18, United States Code, as added by  
23 this title; or



1 (B) ineligible for credit toward prerelease  
2 custody under section 3624(c)(2) of title 18,  
3 United States Code, as added by this title.

4 (2) CONGRESSIONAL REVIEW.—Upon receipt of  
5 the report under paragraph (1), the appropriate  
6 committees of Congress shall review the effectiveness  
7 of different categories of incentives in reducing re-  
8 cidivism.

9 (e) DEFINITION.—For purposes of this section, the  
10 term “appropriate committees of Congress” means—

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

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

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

22 (a) REENTRY AND RECOVERY PLANNING.—

23 (1) PRESENTENCE REPORTS.—Section 3552 of  
24 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) of this  
24 paragraph, but such reduction may not exceed

1           one-half the amount of the reduction awarded  
2           to the prisoner under such 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 (referred to in this subsection as the “pilot  
11          program”), premised on high-intensity supervision  
12          and the use of swift, predictable, and graduated  
13          sanctions for noncompliance with program rules, in  
14          Federal judicial districts selected by the Administra-  
15          tive Office of the United States Courts in consulta-  
16          tion with the Attorney General.

17          (2) REQUIREMENTS OF PROGRAM.—Participa-  
18          tion in the pilot program shall be subject to the fol-  
19          lowing requirements:

20                (A) Upon entry of participants into the  
21                pilot program, the court shall notify the pro-  
22                gram participants of the rules of the program  
23                and consequences for violating such rules, in-  
24                cluding the penalties to be imposed as a result

1 of such violations pursuant to subparagraph  
2 (E).

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

6 (C) If a probation officer determines that  
7 a participant has violated a term of supervised  
8 release, the officer shall notify the court within  
9 24 hours of such determination, absent good  
10 cause.

11 (D) As soon as is practicable, and not later  
12 than 7 days after the violation was reported by  
13 the probation officer, absent good cause, the  
14 court shall conduct a hearing on the alleged vio-  
15 lation.

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

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

1 (ii) Referral to appropriate substance  
2 abuse treatment.

3 (iii) Revocation of the participant's  
4 supervised release and the imposition of a  
5 sentence of incarceration that is no longer  
6 than necessary to punish the participant  
7 for such violation and deter the participant  
8 from committing future violations.

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

13 (3) STATUS OF PARTICIPANT IF INCARCER-  
14 ATED.—

15 (A) IN GENERAL.—If a program partici-  
16 pant is sentenced to incarceration as described  
17 in paragraph (2)(E)(iii), the participant shall  
18 remain in the program upon release from incar-  
19 ceration unless terminated from the program  
20 under paragraph (2)(E)(iv).

21 (B) POLICIES FOR MAINTAINING EMPLOY-  
22 MENT.—The Bureau of Prisons, in consultation  
23 with the Chief Probation Officers of the Federal  
24 judicial districts selected for participation in the  
25 pilot program, shall develop policies to enable

1 program participants sentenced to terms of in-  
2 carceration as described in paragraph  
3 (2)(E)(iii) to, where practicable, serve the terms  
4 of incarceration while maintaining employment,  
5 including allowing the terms of incarceration to  
6 be served on weekends.

7 (4) ADVISORY SENTENCING POLICIES.—

8 (A) IN GENERAL.—The United States Sen-  
9 tencing Commission, in consultation with the  
10 Chief Probation Officers, United States Attor-  
11 neys, Federal Defenders, and Chief Judges of  
12 the districts selected for participation in the  
13 pilot program, shall establish advisory sen-  
14 tencing policies to be used by the district courts  
15 in imposing sentences of incarceration in ac-  
16 cordance with paragraph (2)(E)(iii).

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

23 (5) DURATION OF PROGRAM.—The pilot pro-  
24 gram shall continue for not less than 5 years and



1 may be extended for not more than 5 years by the  
2 Administrative Office 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. PROMOTING SUCCESSFUL REENTRY.**

5 (a) FEDERAL REENTRY DEMONSTRATION  
6 PROJECTS.—

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

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

16 (i) examining reentry practices in  
17 Federal, State, and local justice systems;  
18 and

19 (ii) consulting with Federal, State,  
20 and local prosecutors, Federal, State, and  
21 local public defenders, nonprofit organiza-  
22 tions that provide reentry services, and  
23 criminal justice experts; and

24 (B) submit to the Committee on the Judi-  
25 ciary of the Senate and the Committee on the

1           Judiciary of the House of Representatives a re-  
2           port that details the evaluation conducted under  
3           subparagraph (A).

4           (2) CREATION OF REENTRY DEMONSTRATION  
5           PROJECTS.—Not later than 3 years after the date of  
6           enactment of this Act, the Attorney General, in con-  
7           sultation with the Administrative Office of the  
8           United States Courts, shall, subject to the avail-  
9           ability of appropriations, select an appropriate num-  
10          ber of Federal judicial districts in which to conduct  
11          Federal reentry demonstration projects using the  
12          best practices identified in the evaluation conducted  
13          under paragraph (1), which may include Federal ju-  
14          dicial districts with existing reentry programs. The  
15          Attorney General shall determine the appropriate  
16          number of Federal judicial districts in which to con-  
17          duct demonstration projects under this paragraph.

18          (3) PROJECT DESIGN.—For each Federal judi-  
19          cial district selected under paragraph (2), the United  
20          States Attorney, in consultation with the Chief  
21          Judge, the Chief Federal Defender, the Chief Probation  
22          Officer, the Bureau of Justice Assistance, the  
23          National Institute of Justice, and criminal justice  
24          experts, shall design a Federal reentry demonstra-

1       tion project for the Federal judicial district in ac-  
2       cordance with paragraph (4).

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

8               (A) the use of community correctional fa-  
9       cilities and home confinement, as determined  
10       appropriate by the Bureau of Prisons;

11              (B) a reentry review team for each pris-  
12       oner to—

13                   (i) develop a reentry plan specific to  
14       the needs of the prisoner; and

15                   (ii) meet with the prisoner following  
16       transfer to monitor the reentry plan;

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

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

23              (E) substance abuse treatment, which may  
24       include addiction treatment medication, if ap-  
25       propriate, medical treatment, including mental

1 health treatment, occupational, vocational and  
2 educational training, apprenticeships, life skills  
3 instruction, recovery support, conflict resolution  
4 training, and other programming to promote ef-  
5 fective reintegration into the community;

6 (F) the participation of volunteers to serve  
7 as advisors and mentors to prisoners being re-  
8 leased into the community;

9 (G) steps to ensure that the prisoner  
10 makes satisfactory progress toward satisfying  
11 any obligations to victims of the prisoner's of-  
12 fense, including any obligation to pay restitu-  
13 tion; and

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

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

21 (A) evaluate the results from each Federal  
22 judicial district selected under paragraph (2),  
23 including the extent to which participating pris-  
24 oners released from the custody of the Bureau  
25 of Prisons were successfully reintegrated into

1           their communities, including whether the par-  
2           ticipating prisoners maintained employment and  
3           refrained from committing further offenses; and

4                   (B) submit to the Committee on the Judi-  
5           ciary of the Senate and the Committee on the  
6           Judiciary of the House of Representatives a re-  
7           port that contains—

8                           (i) the evaluation of the best practices  
9                           identified in the report required under  
10                          paragraph (1); and

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

13           (b) STUDY ON THE IMPACT OF REENTRY ON CER-  
14   TAIN COMMUNITIES.—

15                   (1) IN GENERAL.—Not later than 2 years after  
16           the date of enactment of this Act, the Attorney Gen-  
17           eral, in consultation with the Administrative Office  
18           of the United States Courts, shall submit to the  
19           Committee on the Judiciary of the Senate and the  
20           Committee on the Judiciary of the House of Rep-  
21           resentatives a report on the impact of reentry of  
22           prisoners on communities in which a dispropor-  
23           tionate number of individuals reside upon release  
24           from incarceration.

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

6           (A) an assessment of the reentry burdens  
7 borne by local communities and local law en-  
8 forcement agencies;

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

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

20           (c) FACILITATING REENTRY ASSISTANCE TO VET-  
21 ERANS.—

22           (1) IN GENERAL.—Not later than 60 days after  
23 the date of the commencement of a prisoner's sen-  
24 tence pursuant to section 3585(a) of title 18, United  
25 States Code, the Director of the Bureau of Prisons

1 shall notify the Secretary of Veterans Affairs and  
2 the Secretary of Labor if the prisoner's presentence  
3 report, prepared pursuant to section 3552 of title  
4 18, United States Code, indicates that the prisoner  
5 has previously served in the Armed Forces of the  
6 United States or if the prisoner has so notified the  
7 Bureau of Prisons.

8 (2) POST-COMMENCEMENT NOTICE.—If a pris-  
9 oner informs the Bureau of Prisons of the prisoner's  
10 prior service in the Armed Forces of the United  
11 States after the commencement of the prisoner's  
12 sentence, the Director of the Bureau of Prisons shall  
13 notify the Secretary of Veterans Affairs and the Sec-  
14 retary of Labor not later than 60 days after the date  
15 on which the prisoner provides such notice.

16 (3) CONTENTS OF NOTICE.—The notice pro-  
17 vided by the Director of the Bureau of Prisons to  
18 the Secretary of Veterans Affairs and the Secretary  
19 of Labor under this subsection shall include the  
20 identity of the prisoner, the facility in which the  
21 prisoner is located, the prisoner's offense of convic-  
22 tion, and the length of the prisoner's sentence.

23 (4) ACCESS TO VA AND DOL.—The Bureau of  
24 Prisons shall provide the Department of Veterans  
25 Affairs and the Department of Labor with reason-



1       able access to any prisoner who has previously  
2       served in the Armed Forces of the United States for  
3       purposes of facilitating that prisoner’s reentry.

4   **SEC. 208. PAROLE FOR JUVENILES.**

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

8   **“§ 5032A. Modification of an imposed term of impris-**  
9                   **onment for violations of law committed**  
10                   **prior to age 18**

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

16               “(1) the defendant has served not less than 20  
17   years in custody for the offense; and

18               “(2) the court finds, after considering the fac-  
19   tors set forth in subsection (c), that the defendant  
20   is not a danger to the safety of any person or the  
21   community and that the interests of justice warrant  
22   a sentence modification.

23       “(b) SUPERVISED RELEASE.—Any defendant whose  
24   sentence is reduced pursuant to subsection (a) shall be or-  
25   dered to serve a period of supervised release of not less

1 than 5 years following release from imprisonment. The  
2 conditions of supervised release and any modification or  
3 revocation of the term of supervise release shall be in ac-  
4 cordance with section 3583.

5 “(c) FACTORS AND INFORMATION TO BE CONSID-  
6 ERED IN DETERMINING WHETHER TO MODIFY A TERM  
7 OF IMPRISONMENT.—The court, in determining whether  
8 to reduce a term of imprisonment pursuant to subsection  
9 (a), shall consider—

10 “(1) the factors described in section 3553(a),  
11 including the nature of the offense and the history  
12 and characteristics of the defendant;

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

15 “(3) a report and recommendation of the Bu-  
16 reau of Prisons, including information on whether  
17 the defendant has substantially complied with the  
18 rules of each institution in which the defendant has  
19 been confined and whether the defendant has com-  
20 pleted any educational, vocational, or other prison  
21 program, where available;

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

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

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

8           “(7) any report from a physical, mental, or psy-  
9 chiatric examination of the defendant conducted by  
10 a licensed health care professional;

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

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

18           “(10) the diminished culpability of juveniles as  
19 compared to that of adults, and the hallmark fea-  
20 tures of youth, including immaturity, impetuosity,  
21 and failure to appreciate risks and consequences,  
22 which counsel against sentencing juveniles to the  
23 otherwise applicable term of imprisonment; and

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

1       “(d) LIMITATION ON APPLICATIONS PURSUANT TO  
2 THIS SECTION.—

3           “(1) SECOND APPLICATION.—Not earlier than  
4 5 years after the date on which an order entered by  
5 a court on an initial application under this section  
6 becomes final, a court shall entertain a second appli-  
7 cation by the same defendant under this section.

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

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

16       “(e) PROCEDURES.—

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

19           “(A) any defendant who has served not  
20 less than 19 years in prison for an offense com-  
21 mitted and completed before the defendant at-  
22 tained 18 years of age for which the defendant  
23 was convicted as an adult; and

24           “(B) the sentencing court, the United  
25 States attorney, and the Federal Public De-

1 fender or Executive Director of the Community  
2 Defender Organization for the judicial district  
3 in which the sentence described in subpara-  
4 graph (A) was imposed.

5 “(2) CRIME VICTIMS RIGHTS.—Upon receiving  
6 notice under paragraph (1), the United States attor-  
7 ney shall provide any notifications required under  
8 section 3771.

9 “(3) APPLICATION.—

10 “(A) IN GENERAL.—An application for a  
11 sentence reduction under this section shall be  
12 filed as a motion to reduce the sentence of the  
13 defendant and may include affidavits or other  
14 written material.

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

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

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

1 “(B) HEARING.—

2 “(i) IN GENERAL.—The court shall  
3 conduct a hearing on the motion, at which  
4 the defendant and counsel for the defend-  
5 ant shall be given the opportunity to be  
6 heard.

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

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

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

23 “(v) FINDINGS.—The court shall state  
24 in open court, and file in writing, the rea-

1               sons for granting or denying a motion  
2               under this section.

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

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

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

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

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

1 **SEC. 209. COMPASSIONATE RELEASE INITIATIVE.**

2 Section 231(g) of the Second Chance Act of 2007 (34  
3 U.S.C. 60541(g)) is amended—

4 (1) in paragraph (1)—

5 (A) by inserting “and eligible terminally ill  
6 offenders” after “elderly offenders” each place  
7 that term appears; and

8 (B) in subparagraph (B), by inserting “,  
9 upon written request from either the Bureau of  
10 Prisons or an eligible elderly offender or eligible  
11 terminally ill offender” after “to home deten-  
12 tion”;

13 (2) in paragraph (2), by inserting “or eligible  
14 terminally ill offender” after “elderly offender”;

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

17 (4) in paragraph (4)—

18 (A) by inserting “or eligible terminally ill  
19 offender” after “each eligible elderly offender”;  
20 and

21 (B) by inserting “and eligible terminally ill  
22 offenders” after “eligible elderly offenders”;  
23 and

24 (5) in paragraph (5)—

25 (A) in subparagraph (A)—



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

3 (ii) in clause (ii)—

4 (I) by striking “the greater of 10  
5 years or”; and

6 (II) by striking “75 percent” and  
7 inserting “ $\frac{2}{3}$ ”; and

8 (B) by adding at the end the following:

9 “(D) ELIGIBLE TERMINALLY ILL OF-  
10 FENDER.—The term ‘eligible terminally ill of-  
11 fender’ means an offender in the custody of the  
12 Bureau of Prisons who—

13 “(i) is serving a term of imprisonment  
14 based on conviction for an offense or of-  
15 fenses that do not include any crime of vio-  
16 lence (as defined in section 16 of title 18,  
17 United States Code), sex offense (as de-  
18 fined in section 111(5) of the Sex Offender  
19 Registration and Notification Act (34  
20 U.S.C. 20911(5))), offense described in  
21 section 2332b(g)(5)(B) of title 18, United  
22 States Code, or offense under chapter 37  
23 of title 18, United States Code;

1 “(ii) satisfies the criteria specified in  
2 clauses (iii) through (vii) of subparagraph  
3 (A); and

4 “(iii) has been determined by a med-  
5 ical doctor approved by the Bureau of  
6 Prisons to be—

7 “(I) in need of care at a nursing  
8 home, intermediate care facility, or  
9 assisted living facility, as those terms  
10 are defined in section 232 of the Na-  
11 tional Housing Act (12 U.S.C.  
12 1715w); or

13 “(II) diagnosed with a terminal  
14 illness.”.

15 **SEC. 210. JUVENILE SEALING AND EXPUNGEMENT.**

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

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

21 (2) prevent the unauthorized use or disclosure  
22 of confidential juvenile delinquency records and any  
23 potential employment, financial, psychological, or  
24 other harm that would result from such unauthor-  
25 ized use or disclosure.

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

3 **“§ 5031. Definitions**

4 “In this chapter—

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

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

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

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

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

22 “(6) the term ‘expungement petition’ means a  
23 petition for expungement filed under section  
24 5044(b);

1           “(7) the term ‘high-risk, public trust position’  
2 means a position designated as a public trust posi-  
3 tion under section 731.106(b) of title 5, Code of  
4 Federal Regulations, or any successor regulation;

5           “(8) the term ‘juvenile’ means—

6                 “(A) except as provided in subparagraph  
7 (B), a person who has not attained the age of  
8 18 years; and

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

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

18           “(10) the term ‘juvenile nonviolent offense’  
19 means—

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

24                         “(i) a criminal homicide, forcible rape  
25 or any other sex offense (as defined in sec-

1           tion 111 of the Sex Offender Registration  
2           and Notification Act (34 U.S.C. 20911)),  
3           kidnapping, aggravated assault, robbery,  
4           burglary of an occupied structure, arson,  
5           or a drug trafficking crime in which a fire-  
6           arm was used; or

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

9           “(B) in the case of an adjudication that  
10          finds the juvenile to be delinquent, an act of ju-  
11          venile delinquency that is not—

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

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

16          “(11) the term ‘juvenile record’—

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

21           “(B) includes—

22           “(i) a juvenile legal file, including a  
23           formal document such as a petition, notice,  
24           motion, legal memorandum, order, or de-  
25           cree;

- 1 “(ii) a social record, including—
- 2 “(I) a record of a probation offi-
- 3 cer;
- 4 “(II) a record of any government
- 5 agency that keeps records relating to
- 6 juvenile delinquency;
- 7 “(III) a medical record;
- 8 “(IV) a psychiatric or psycho-
- 9 logical record;
- 10 “(V) a birth certificate;
- 11 “(VI) an education record, in-
- 12 cluding an individualized education
- 13 plan;
- 14 “(VII) a detention record;
- 15 “(VIII) demographic information
- 16 that identifies a juvenile or the family
- 17 of a juvenile; or
- 18 “(IX) any other record that in-
- 19 cludes personally identifiable informa-
- 20 tion that may be associated with a ju-
- 21 venile delinquency proceeding, an act
- 22 of juvenile delinquency, or an alleged
- 23 act of juvenile delinquency; and

1                   “(iii) a law enforcement record, in-  
2                   cluding a photograph or a State criminal  
3                   justice information system record; and

4                   “(C) does not include—

5                   “(i) fingerprints; or

6                   “(ii) a DNA sample;

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

9                   “(13) the term ‘seal’ means—

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

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

16                   “(14) the term ‘sealing hearing’ means a hear-  
17                   ing held under section 5043(b)(2)(B); and

18                   “(15) the term ‘sealing petition’ means a peti-  
19                   tion for a sealing order filed under section  
20                   5043(b).”.

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

23                   (1) in subsection (a), in the flush text following  
24                   paragraph (6), by inserting after “bonding,” the fol-

1       lowing: “participation in an educational system,”;  
2       and

3               (2) in subsection (b), by striking “District  
4       courts exercising jurisdiction over any juvenile” and  
5       inserting the following: “Not later than 7 days after  
6       the date on which a district court exercises jurisdic-  
7       tion over a juvenile, the district court”.

8       (d) SEALING; EXPUNGEMENT.—

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

12       **“§ 5043. Sealing**

13               “(a) AUTOMATIC SEALING OF NONVIOLENT OF-  
14       FENSES.—

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

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



1           “(B) is not engaged in active criminal  
2           court proceedings or juvenile delinquency pro-  
3           ceedings.

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

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

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

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

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

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

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

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

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

22                 “(ii) on the date on which the indi-  
23                 vidual has completed every term of proba-  
24                 tion, official detention, or juvenile delin-

1           quent supervision ordered by the court  
2           with respect to the offense.

3           “(2) PROCEDURES.—

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

9                   “(i) to the Attorney General; and

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

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

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

17           “(B) HEARING.—

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

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

23                           “(II) determine whether to enter  
24           a sealing order for the person in ac-  
25           cordance with subparagraph (C).

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

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

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

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

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

1           “(C) BASIS FOR DECISION.—The court  
2 shall determine whether to grant the sealing pe-  
3 tition after considering—

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

6                   “(ii) all the evidence and testimony  
7 presented at the sealing hearing, if such a  
8 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 law enforce-  
24 ment 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 a sealing petition, the peti-  
10          tioner may not file a new sealing petition with  
11          respect to the same juvenile nonviolent offense  
12          until the date that is 2 years after the date of  
13          the denial.

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

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 a sealing 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 sealing peti-  
5                           tions granted and denied under this  
6                           subsection; and

7                           “(II) the number of instances in  
8                           which the Attorney General supported  
9                           or opposed a sealing 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 sealing hearing, in-  
15                 cluding the number and type of  
16                 witnesses called to advocate  
17                 against the sealing of the records  
18                 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 SEALING ORDER.—

24                 “(1) PROTECTION FROM DISCLOSURE.—Except  
25                 as provided in paragraphs (3) and (4), if a court or-



1       ders the sealing of a juvenile record of a person  
2       under subsection (a) or (b) with respect to a juvenile  
3       nonviolent offense, the proceedings in the case shall  
4       be deemed never to have occurred, and the person  
5       may properly reply accordingly to any inquiry about  
6       the events the records of which are ordered sealed.

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

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

15                   “(i) law enforcement agency; and

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

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

21                   “(i) seal the record; and

22                   “(ii) submit a written certification to  
23                   the court, under penalty of perjury, that  
24                   the entity or person has sealed each paper  
25                   and electronic copy of the record;

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

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

9           “(3) LAW ENFORCEMENT ACCESS TO SEALED  
10 RECORDS.—

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

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

20           “(ii) for investigatory or prosecutorial  
21 purposes; or

22           “(iii) for a background check that re-  
23 lates to—

24           “(I) law enforcement employ-  
25 ment; or

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

3                           “(aa) national security posi-  
4                           tion; or

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

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

14                   “(4) PROHIBITION ON DISCLOSURE.—

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

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

24                           “(C) EXCEPTIONS.—

1           “(i) BACKGROUND CHECKS.—In the  
2 case of a background check for law en-  
3 forcement employment or for any employ-  
4 ment that requires a government security  
5 clearance—

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

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

13                           “(aa) may disclose the con-  
14 tents of the record; and

15                           “(bb) if the agency obtains  
16 or is subject to a court order au-  
17 thorizing disclosure of the record,  
18 may disclose the record.

19           “(ii) DISCLOSURE TO ARMED  
20 FORCES.—A person, including a law en-  
21 forcement agency that possesses a juvenile  
22 record sealed under this section, may dis-  
23 close information from a juvenile record  
24 sealed under this section to the Secretaries  
25 of the military departments (or the Sec-

1           retary of Homeland Security with respect  
2           to the Coast Guard when it is not oper-  
3           ating as a service in the Navy) for the pur-  
4           pose of vetting an enlistment or commis-  
5           sion, or with regard to any member of the  
6           Armed Forces.

7           “(iii) CRIMINAL AND JUVENILE PRO-  
8           CEEDINGS.—A prosecutor or other law en-  
9           forcement officer may disclose information  
10          from a juvenile record sealed under this  
11          section, and a person who is the subject of  
12          a juvenile record sealed under this section  
13          may be required to testify or otherwise dis-  
14          close information about the record, in a  
15          criminal or other proceeding if such disclo-  
16          sure is required by the Constitution of the  
17          United States, the constitution of a State,  
18          or a Federal or State statute or rule.

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

24          “(d) LIMITATION RELATING TO SUBSEQUENT INCI-  
25          DENTS.—

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

10           “(2) AFTER PETITION GRANTED.—If, on or  
 11 after the date on which a court orders the sealing  
 12 of a juvenile record of a person under subsection (b),  
 13 the person is convicted of a crime or adjudicated de-  
 14 linquent for an act of juvenile delinquency—

15           “(A) the court shall—

16                   “(i) vacate the order; and

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

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

23           “(e) INCLUSION OF STATE JUVENILE DELINQUENCY  
 24 ADJUDICATIONS AND PROCEEDINGS.—For purposes of  
 25 subparagraphs (A) and (B) of subsection (a)(1), clauses

1 (i) and (ii) of subsection (b)(1)(A), subsection  
2 (b)(1)(C)(ix), and paragraphs (1) and (2) of subsection  
3 (d), the term ‘juvenile delinquency’ includes the violation  
4 of a law of a State committed by a person before attaining  
5 the age of 18 years which would have been a crime if com-  
6 mitted by an adult.

7 **“§ 5044. Expungement**

8 “(a) AUTOMATIC EXPUNGEMENT OF CERTAIN  
9 RECORDS.—

10 “(1) ATTORNEY GENERAL MOTION.—

11 “(A) NONVIOLENT OFFENSES COMMITTED  
12 BEFORE A PERSON TURNED 15.—If a person is  
13 adjudicated delinquent under this chapter for a  
14 juvenile nonviolent offense committed before the  
15 person attained 15 years of age and completes  
16 every term of probation, official detention, or  
17 juvenile delinquent supervision ordered by the  
18 court with respect to the offense before attain-  
19 ing 18 years of age, on the date on which the  
20 person attains 18 years of age, the Attorney  
21 General shall file a motion in the district court  
22 of the United States in which the person was  
23 adjudicated delinquent requesting that each ju-  
24 venile record of the person that relates to the  
25 offense be expunged.

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

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

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



1 proceeding under this chapter, the court shall con-  
2 currently order that each juvenile record relating to  
3 the applicable proceeding be expunged.

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

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

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

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

23 “(A) has been convicted of a crime or ad-  
24 judicated delinquent for an act of juvenile delin-  
25 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           “(iii) WAIVER OF HEARING.—If the  
2           petitioner and the Attorney General so  
3           agree, the court shall make a determina-  
4           tion under subparagraph (C) without a  
5           hearing.

6           “(C) BASIS FOR DECISION.—The court  
7           shall determine whether to grant an  
8           expungement petition after considering—

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

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

14                   “(iii) the best interests of the peti-  
15                  tioner;

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

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

21                   “(vi) the disposition of the case;

22                   “(vii) the manner in which the peti-  
23                  tioner participated in any court-ordered re-  
24                  habilitative programming or supervised  
25                  services;

1           “(viii) the length of the time period  
2           during which the petitioner has been with-  
3           out contact with any court or any law en-  
4           forcement agency;

5           “(ix) whether the petitioner has had  
6           any criminal or juvenile delinquency in-  
7           volvement since the disposition of the juve-  
8           nile delinquency proceeding; and

9           “(x) the adverse consequences the pe-  
10          titioner may suffer if the petition is not  
11          granted.

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

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

23          “(F) NO FEE FOR INDIGENT PETI-  
24          TIONERS.—If the court determines that the pe-

1           petitioner is indigent, there shall be no cost for  
2           filing an expungement petition.

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

8                   “(i) describes—

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

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

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

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

21           “(H) PUBLIC DEFENDER ELIGIBILITY.—

22                   “(i) PETITIONERS UNDER AGE 18.—  
23           The district court shall appoint counsel in  
24           accordance with the plan of the district  
25           court in operation under section 3006A to

1 represent a petitioner for purposes of this  
2 subsection if the petitioner is less than 18  
3 years of age.

4 “(ii) PETITIONERS AGE 18 AND  
5 OLDER.—

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

14 “(II) CONSIDERATIONS.—In de-  
15 termining whether to appoint counsel  
16 under subclause (I), the court shall  
17 consider—

18 “(aa) the anticipated com-  
19 plexity of the expungement hear-  
20 ing, including the number and  
21 type of witnesses called to advo-  
22 cate against the expungement of  
23 the records of the petitioner; and

24 “(bb) the potential for ad-  
25 verse testimony by a victim or a

1 representative of the Attorney  
2 General.

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

4 “(1) PROTECTION FROM DISCLOSURE.—Except  
5 as provided in paragraphs (4) through (8), if a court  
6 orders the expungement of a juvenile record of a  
7 person under subsection (a) or (b) with respect to a  
8 juvenile nonviolent offense, the proceedings in the  
9 case shall be deemed never to have occurred, and the  
10 person may properly reply accordingly to any inquiry  
11 about the events the records of which are ordered  
12 expunged.

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

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

21 “(i) law enforcement agency; and

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

24 “(B) in the expungement order—



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

3                   “(I) seal the record for 1 year  
4                   and, during that 1-year period, apply  
5                   paragraphs (3) and (4) of section  
6                   5043(c) with respect to the record;

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

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

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

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

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

7           “(3) REPLY TO INQUIRIES.—On and after the  
8           date that is 1 year after the date on which a court  
9           orders the expungement of a juvenile record of a  
10          person under this section, in the case of an inquiry  
11          relating to the juvenile record, the court, each law  
12          enforcement officer, any agency that provided treat-  
13          ment or rehabilitation services to the person, and the  
14          person (except as provided in paragraphs (4)  
15          through (8)) shall reply to the inquiry that no such  
16          juvenile record exists.

17          “(4) CIVIL ACTIONS.—

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

1 enforcement agency is an agency, in which the  
2 contents of the record are relevant to the reso-  
3 lution of the issues presented in the action,  
4 there shall be a rebuttable presumption that the  
5 defendant has a complete defense to the action.

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

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

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

24 “(5) CRIMINAL AND JUVENILE PRO-  
25 CEEDINGS.—On and after the date that is 1 year

1 after the date on which a court orders the  
2 expungement of a juvenile record under this section,  
3 a prosecutor or other law enforcement officer may  
4 disclose underlying information from the juvenile  
5 record, and the person who is the subject of the ju-  
6 venile record may be required to testify or otherwise  
7 disclose information about the record, in a criminal  
8 or other proceeding if such disclosure is required by  
9 the Constitution of the United States, the constitu-  
10 tion of a State, or a Federal or State statute or rule.

11 “(6) BACKGROUND CHECKS.—On and after the  
12 date that is 1 year after the date on which a court  
13 orders the expungement of a juvenile record under  
14 this section, in the case of a background check for  
15 law enforcement employment or for any employment  
16 that requires a government security clearance, the  
17 person who is the subject of the juvenile record may  
18 be required to disclose underlying information from  
19 the record.

20 “(7) DISCLOSURE TO ARMED FORCES.—On and  
21 after the date that is 1 year after the date on which  
22 a court orders the expungement of a juvenile record  
23 under this section, a person, including a law enforce-  
24 ment agency that possessed such a juvenile record,  
25 may be required to disclose underlying information

1 from the record to the Secretaries of the military de-  
2 partments (or the Secretary of Homeland Security  
3 with respect to the Coast Guard when it is not oper-  
4 ating as a service in the Navy) for the purpose of  
5 vetting an enlistment or commission, or with regard  
6 to any member of the Armed Forces.

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

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

18 “(d) LIMITATION RELATING TO SUBSEQUENT INCI-  
19 DENTS.—

20 “(1) AFTER FILING AND BEFORE PETITION  
21 GRANTED.—If, after the date on which a person files  
22 an expungement petition with respect to a juvenile  
23 offense and before the court determines whether to  
24 grant the petition, the person is convicted of a  
25 crime, adjudicated delinquent for an act of juvenile

1 delinquency, or engaged in active criminal court pro-  
2 ceedings or juvenile delinquency proceedings, the  
3 court shall deny the petition.

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

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

13 “(i) vacate the order; and

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

19 “(B) the record—

20 “(i) shall not be expunged; or

21 “(ii) if the record has been expunged  
22 because 1 year has elapsed since the date  
23 of the expungement order, shall not be  
24 treated as having been expunged.

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

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

“5043. Sealing.

“5044. Expungement.”.

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

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

1 **SEC. 211. JUVENILE SOLITARY CONFINEMENT.**

2 (a) IN GENERAL.—Chapter 403 of title 18, United  
3 States Code, as amended by section 210, is amended by  
4 adding at the end the following:

5 **“§ 5045. Juvenile solitary confinement**

6 “(a) DEFINITIONS.—In this section—

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

8 “(A) a juvenile who—

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

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

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

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

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

21 “(B) detained prior to disposition or con-  
22 viction; and

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



1       “(b) PROHIBITION ON ROOM CONFINEMENT IN JU-  
2   VENILE FACILITIES.—

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

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

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

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

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

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

24           “(ii) EXPLANATION.—If, after at-  
25   tempting to use less restrictive techniques

1 as required under clause (i), a staff mem-  
2 ber of a juvenile facility decides to place a  
3 covered juvenile in room confinement, the  
4 staff member shall first—

5 “(I) explain to the covered juve-  
6 nile the reasons for the room confine-  
7 ment; and

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

11 “(aa) immediately when the  
12 covered juvenile regains self-con-  
13 trol, as described in subpara-  
14 graph (B)(i); or

15 “(bb) not later than after  
16 the expiration of the time period  
17 described in subclause (I) or (II)  
18 of subparagraph (B)(ii), as appli-  
19 cable.

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

1           “(i) immediately when the covered ju-  
2           venile has sufficiently gained control so as  
3           to no longer engage in behavior that  
4           threatens serious and immediate risk of  
5           physical harm to himself or herself, or to  
6           others; or

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

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

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

20                   “(C) RISK OF HARM AFTER MAXIMUM PE-  
21                   RIOD OF CONFINEMENT.—If, after the applica-  
22                   ble maximum period of confinement under sub-  
23                   clause (I) or (II) of subparagraph (B)(ii) has  
24                   expired, a covered juvenile continues to pose a

1           serious and immediate risk of physical harm de-  
2           scribed in that subclause—

3                   “(i) the covered juvenile shall be  
4                   transferred to another juvenile facility or  
5                   internal location where services can be pro-  
6                   vided to the covered juvenile without rely-  
7                   ing on room confinement; or

8                   “(ii) if a qualified mental health pro-  
9                   fessional believes the level of crisis service  
10                  needed is not currently available, a staff  
11                  member of the juvenile facility shall ini-  
12                  tiate a referral to a location that can meet  
13                  the needs of the covered juvenile.

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

18           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
19   The table of sections for chapter 403 of title 18, United  
20   States Code, as amended by section 210, is amended by  
21   adding at the end the following:

“5045. Juvenile solitary confinement.”.

1 **SEC. 212. ENSURING ACCURACY OF FEDERAL CRIMINAL**  
2 **RECORDS.**

3 (a) IN GENERAL.—Section 534 of title 28, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

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

8 “(1) DEFINITIONS.—

9 “(A) IN GENERAL.—In this subsection—

10 “(i) the term ‘applicant’ means the in-  
11 dividual to whom a record sought to be ex-  
12 changed pertains;

13 “(ii) the term ‘high-risk, public trust  
14 position’ means a position designated as a  
15 public trust position under section  
16 731.106(b) of title 5, Code of Federal Reg-  
17 ulations, or any successor regulation;

18 “(iii) the term ‘incomplete’, with re-  
19 spect to a record, means the record—

20 “(I) indicates that an individual  
21 was arrested but does not describe the  
22 offense for which the individual was  
23 arrested; or

24 “(II) indicates that an individual  
25 was arrested or criminal proceedings  
26 were instituted against an individual

1 but does not include the final disposi-  
2 tion of the arrest or of the pro-  
3 ceedings if a final disposition has been  
4 reached;

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

8 “(I) an arrest by a Federal law  
9 enforcement officer; or

10 “(II) a Federal criminal pro-  
11 ceeding;

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

16 “(vi) the term ‘requesting entity’—

17 “(I) means a person or entity  
18 that seeks the exchange of a record  
19 for civil purposes that include employ-  
20 ment, housing, credit, or any other  
21 type of application; and

22 “(II) does not include a law en-  
23 forcement or intelligence agency that  
24 seeks the exchange of a record for—

1                   “(aa) investigative purposes;  
2                   or  
3                   “(bb) purposes relating to  
4                   law enforcement employment.

5                   “(B) RULE OF CONSTRUCTION.—The defi-  
6                   nition of the term ‘requesting entity’ under sub-  
7                   paragraph (A) shall not be construed to author-  
8                   ize access to records that is not otherwise au-  
9                   thorized by law.

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

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

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

24                         “(B) INCOMPLETE RECORD.—

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

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

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

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

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



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

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

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

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

17                           “(I) obtain a copy of the record;

18                           and

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

21                           “(iii) promptly notify the requesting  
22                           entity of any such challenge;

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

1 “(v) provide to the applicant the spe-  
2 cific findings and results of that investiga-  
3 tion;

4 “(vi) promptly make any changes or  
5 deletions to the records required as a re-  
6 sult of the challenge; and

7 “(vii) report those changes to the re-  
8 questing entity.

9 “(E) CERTAIN EXCHANGES PROHIBITED.—

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

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

18 “(II) relating to an adult or juve-  
19 nile nonserious offense of the sort de-  
20 scribed in section 20.32(b) of title 28,  
21 Code of Federal Regulations, as in ef-  
22 fect on July 1, 2009; or

23 “(III) to the extent the record is  
24 not clearly an arrest or a disposition  
25 of an arrest.

1                   “(ii) APPLICANTS FOR SENSITIVE PO-  
2                   SITIONS.—The prohibition under clause  
3                   (i)(I) shall not apply in the case of a back-  
4                   ground check that relates to—

5                               “(I) law enforcement employ-  
6                               ment; or

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

9                                       “(aa) national security posi-  
10                                      tion; or

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

13                   “(4) FEES.—The Attorney General may collect  
14                   a reasonable fee for an exchange of records for em-  
15                   ployment-related purposes through the records sys-  
16                   tem created under this section to defray the costs  
17                   associated with exchanges for those purposes, includ-  
18                   ing any costs associated with the investigation of in-  
19                   accurate or incomplete records.”.

20                   (b) REGULATIONS ON REASONABLE PROCEDURES.—  
21                   Not later than 1 year after the date of enactment of this  
22                   Act, the Attorney General shall issue regulations to carry  
23                   out section 534(g) of title 28, United States Code, as  
24                   added by subsection (a).

25                   (c) REPORT.—

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

5           (2) REPORT REQUIRED.—Not later than 2  
6 years after the date of enactment of this Act, the  
7 Attorney General shall submit to Congress a report  
8 on the implementation of subsection (g) of section  
9 534 of title 28, United States Code, as added by  
10 subsection (a), that includes—

11                   (A) the number of exchanges of records for  
12 employment-related purposes made with entities  
13 in each State through the records system cre-  
14 ated under such section 534;

15                   (B) any prolonged failure of a Federal  
16 agency to comply with a request by the Attor-  
17 ney General for information about dispositions  
18 of arrests; and

19                   (C) the numbers of successful and unsuc-  
20 cessful challenges to the accuracy and complete-  
21 ness of records, organized by the Federal agen-  
22 cy from which each record originated.

1 **TITLE III—NATIONAL CRIMINAL**  
2 **JUSTICE COMMISSION ACT**

3 **SEC. 301. SHORT TITLE.**

4 This Act may be cited as the “National Criminal Jus-  
5 tice Commission Act of 2017”.

6 **SEC. 302. FINDINGS.**

7 Congress finds that—

8 (1) it is in the interest of the Nation to estab-  
9 lish a commission to undertake a comprehensive re-  
10 view of the criminal justice system;

11 (2) there has not been a comprehensive study  
12 since the President’s Commission on Law Enforce-  
13 ment and Administration of Justice was established  
14 in 1965;

15 (3) that commission, in a span of 18 months,  
16 produced a comprehensive report entitled “The  
17 Challenge of Crime in a Free Society”, which con-  
18 tained 200 specific recommendations on all aspects  
19 of the criminal justice system involving Federal,  
20 State, tribal, and local governments, civic organiza-  
21 tions, religious institutions, business groups, and in-  
22 dividual citizens; and

23 (4) developments over the intervening 50 years  
24 require once again that Federal, State, tribal, and  
25 local governments, civic organizations, religious in-

1       stitutions, business groups, and individual citizens  
2       come together to review evidence and consider how  
3       to improve the criminal justice system.

4   **SEC. 303. ESTABLISHMENT OF COMMISSION.**

5       There is established a commission to be known as the  
6   “National Criminal Justice Commission” (referred to in  
7   this title as the “Commission”).

8   **SEC. 304. PURPOSE OF THE COMMISSION.**

9       The Commission shall—

10           (1) undertake a comprehensive review of the  
11       criminal justice system;

12           (2) make recommendations for Federal criminal  
13       justice reform to the President and Congress; and

14           (3) disseminate findings and supplemental guid-  
15       ance to the Federal Government, as well as to State,  
16       local, and tribal governments.

17   **SEC. 305. REVIEW, RECOMMENDATIONS, AND REPORT.**

18       (a) GENERAL REVIEW.—The Commission shall un-  
19   dertake a comprehensive review of all areas of the criminal  
20   justice system, including Federal, State, local, and tribal  
21   governments’ criminal justice costs, practices, and policies.

22       (b) RECOMMENDATIONS.—

23           (1) IN GENERAL.—Not later than 18 months  
24       after the first meeting of the Commission, the Com-  
25       mission shall submit to the President and Congress

1 recommendations for changes in Federal oversight,  
2 policies, practices, and laws designed to prevent,  
3 deter, and reduce crime and violence, reduce recidi-  
4 vism, improve cost-effectiveness, and ensure the in-  
5 terests of justice at every step of the criminal justice  
6 system.

7 (2) UNANIMOUS CONSENT REQUIRED.—A rec-  
8 ommendation of the Commission may be adopted  
9 and submitted under paragraph (1) if the rec-  
10 ommendation is approved by a unanimous vote of  
11 the Commissioners at a meeting where a quorum is  
12 present pursuant to section 306(d).

13 (3) REQUIREMENT.—The recommendations  
14 submitted under this subsection shall be made avail-  
15 able to the public.

16 (c) REPORT.—

17 (1) IN GENERAL.—Not later than 18 months  
18 after the first meeting of the Commission, the Com-  
19 mission shall also disseminate to the Federal Gov-  
20 ernment, as well as to State, local, and tribal gov-  
21 ernments, a report that details the findings and sup-  
22 plemental guidance of the Commission regarding the  
23 criminal justice system at all levels of government.

24 (2) MAJORITY VOTE REQUIRED.—Commission  
25 findings and supplemental guidance may be adopted

1 and included in the report required under paragraph  
2 (1) if the findings or guidance is approved by a ma-  
3 jority vote of the Commissioners at a meeting where  
4 a quorum is present pursuant to section 306(d), ex-  
5 cept that any Commissioners dissenting from par-  
6 ticular finding or supplemental guidance shall have  
7 the right to state the reason for their dissent in  
8 writing and such dissent shall be included in the re-  
9 port of the Commission.

10 (3) REQUIREMENT.—The report submitted  
11 under this subsection shall be made available to the  
12 public.

13 (d) PRIOR COMMISSIONS.—The Commission shall  
14 take into consideration the work of prior relevant commis-  
15 sions in conducting its review.

16 (e) STATE AND LOCAL GOVERNMENT.—In issuing its  
17 recommendations and report under this section, the Com-  
18 mission shall not infringe on the legitimate rights of the  
19 States to determine their own criminal laws or the enforce-  
20 ment of such laws.

21 (f) PUBLIC HEARINGS.—The Commission shall con-  
22 duct public hearings in various locations around the  
23 United States.

24 (g) CONSULTATION WITH GOVERNMENT AND NON-  
25 GOVERNMENT REPRESENTATIVES.—



1 (1) IN GENERAL.—The Commission shall—

2 (A) closely consult with Federal, State,  
3 local, and tribal government and nongovern-  
4 mental leaders, including State, local, and tribal  
5 law enforcement officials, legislators, public  
6 health officials, judges, court administrators,  
7 prosecutors, defense counsel, victims' rights or-  
8 ganizations, probation and parole officials,  
9 criminal justice planners, criminologists, civil  
10 rights and liberties organizations, formerly in-  
11 carcerated individuals, professional organiza-  
12 tions, and corrections officials; and

13 (B) include in the final report required  
14 under subsection (c) summaries of the input  
15 and recommendations of these leaders.

16 (2) UNITED STATES SENTENCING COMMIS-  
17 SION.—To the extent the review and recommenda-  
18 tions required by this section relate to sentencing  
19 policies and practices for the Federal criminal jus-  
20 tice system, the Commission shall conduct such re-  
21 view and make such recommendations in consulta-  
22 tion with the United States Sentencing Commission.

23 (h) SENSE OF CONGRESS, GOAL OF UNANIMITY.—  
24 It is the sense of the Congress that, given the national  
25 importance of the matters before the Commission, the

1 Commission should work toward unanimously supported  
2 findings and supplemental guidance, and that unani-  
3 mously supported findings and supplemental guidance  
4 should take precedence over those findings and supple-  
5 mental guidance that are not unanimously supported.

6 **SEC. 306. MEMBERSHIP.**

7 (a) IN GENERAL.—The Commission shall be com-  
8 posed of 14 members, as follows:

9 (1) One member shall be appointed by the  
10 President, who shall serve as co-chairman of the  
11 Commission.

12 (2) One member shall be appointed by the lead-  
13 er of the Senate, in consultation with the leader of  
14 the House of Representatives, that is a member of  
15 the opposite party of the President, who shall serve  
16 as co-chairman of the Commission.

17 (3) Two members shall be appointed by the sen-  
18 ior member of the Senate leadership of the Demo-  
19 cratic Party, in consultation with the Democratic  
20 leadership of the Committee on the Judiciary.

21 (4) Two members shall be appointed by the sen-  
22 ior member of the Senate leadership of the Repub-  
23 lican Party, in consultation with the Republican  
24 leadership of the Committee on the Judiciary.

1           (5) Two members shall be appointed by the sen-  
2           ior member of the leadership of the House of Rep-  
3           resentatives of the Republican Party, in consultation  
4           with the Republican leadership of the Committee on  
5           the Judiciary.

6           (6) Two members shall be appointed by the sen-  
7           ior member of the leadership of the House of Rep-  
8           resentatives of the Democratic Party, in consultation  
9           with the Democratic leadership of the Committee on  
10          the Judiciary.

11          (7) Two members, who shall be State and local  
12          representatives, shall be appointed by the President  
13          in agreement with leader of the Senate (majority or  
14          minority leader, as the case may be) of the Repub-  
15          lican Party and the leader of the House of Rep-  
16          resentatives (majority or minority leader, as the case  
17          may be) of the Republican Party.

18          (8) Two members, who shall be State and local  
19          representatives, shall be appointed by the President  
20          in agreement with leader of the Senate (majority or  
21          minority leader, as the case may be) of the Demo-  
22          cratic Party and the leader of the House of Rep-  
23          resentatives (majority or minority leader, as the case  
24          may be) of the Democratic Party.

25          (b) MEMBERSHIP.—

1           (1) QUALIFICATIONS.—The individuals ap-  
2           pointed from private life as members of the Commis-  
3           sion shall be individuals with distinguished reputa-  
4           tions for integrity and nonpartisanship who are na-  
5           tionally recognized for expertise, knowledge, or expe-  
6           rience in such relevant areas as—

7                   (A) law enforcement;

8                   (B) criminal justice;

9                   (C) national security;

10                  (D) prison and jail administration;

11                  (E) prisoner reentry;

12                  (F) public health, including physical and  
13                  sexual victimization, drug addiction and mental  
14                  health;

15                  (G) victims' rights;

16                  (H) civil liberties;

17                  (I) court administration;

18                  (J) social services; and

19                  (K) State, local, and tribal government.

20           (2) DISQUALIFICATION.—An individual shall  
21           not be appointed as a member of the Commission if  
22           such individual possesses any personal financial in-  
23           terest in the discharge of any of the duties of the  
24           Commission.

1           (3) TERMS.—Members shall be appointed for  
2 the life of the Commission.

3 (c) APPOINTMENT; FIRST MEETING.—

4           (1) APPOINTMENT.—Members of the Commis-  
5 sion shall be appointed not later than 45 days after  
6 the date of the enactment of this Act.

7           (2) FIRST MEETING.—The Commission shall  
8 hold its first meeting on the date that is 60 days  
9 after the date of enactment of this Act, or not later  
10 than 30 days after the date on which funds are  
11 made available for the Commission, whichever is  
12 later.

13           (3) ETHICS.—At the first meeting of the Com-  
14 mission, the Commission shall draft appropriate eth-  
15 ics guidelines for commissioners and staff, including  
16 guidelines relating to conflict of interest and finan-  
17 cial disclosure. The Commission shall consult with  
18 the Senate and House Committees on the Judiciary  
19 as a part of drafting the guidelines and furnish the  
20 Committees with a copy of the completed guidelines.

21 (d) MEETINGS; QUORUM; VACANCIES.—

22           (1) MEETINGS.—The Commission shall meet at  
23 the call of the co-chairs or a majority of its mem-  
24 bers.

1           (2) QUORUM.—Eight members of the Commis-  
2           sion shall constitute a quorum for purposes of con-  
3           ducting business, except that 2 members of the  
4           Commission shall constitute a quorum for purposes  
5           of receiving testimony.

6           (3) VACANCIES.—Any vacancy in the Commis-  
7           sion shall not affect its powers, but shall be filled in  
8           the same manner in which the original appointment  
9           was made. If vacancies in the Commission occur on  
10          any day after 45 days after the date of the enact-  
11          ment of this Act, a quorum shall consist of a major-  
12          ity of the members of the Commission as of such  
13          day, so long as not less than 1 Commission member  
14          chosen by a member of each party, Republican and  
15          Democratic, is present.

16          (e) ACTIONS OF COMMISSION.—

17               (1) IN GENERAL.—The Commission—

18                   (A) shall, subject to the requirements of  
19                   section 305, act by resolution agreed to by a  
20                   majority of the members of the Commission  
21                   voting and present; and

22                   (B) may establish panels composed of less  
23                   than the full membership of the Commission for  
24                   purposes of carrying out the duties of the Com-  
25                   mission under this title—

1 (i) which shall be subject to the review  
2 and control of the Commission; and

3 (ii) any findings and determinations  
4 made by such a panel shall not be consid-  
5 ered the findings and determinations of the  
6 Commission unless approved by the Com-  
7 mission.

8 (2) DELEGATION.—Any member, agent, or staff  
9 of the Commission may, if authorized by the co-  
10 chairs of the Commission, take any action which the  
11 Commission is authorized to take pursuant to this  
12 Act.

13 **SEC. 307. ADMINISTRATION.**

14 (a) STAFF.—

15 (1) EXECUTIVE DIRECTOR.—The Commission  
16 shall have a staff headed by an Executive Director.  
17 The Executive Director shall be paid at a rate estab-  
18 lished for the Certified Plan pay level for the Senior  
19 Executive Service under section 5382 of title 5,  
20 United States Code.

21 (2) APPOINTMENT AND COMPENSATION.—The  
22 co-chairs of the Commission shall designate and fix  
23 the compensation of the Executive Director and, in  
24 accordance with rules agreed upon by the Commis-  
25 sion, may appoint and fix the compensation of such

1 other personnel as may be necessary to enable the  
2 Commission to carry out its functions, without re-  
3 gard to the provisions of title 5, United States Code,  
4 governing appointments in the competitive service,  
5 and without regard to the provisions of chapter 51  
6 and subchapter III of chapter 53 of such title relat-  
7 ing to classification and General Schedule pay rates,  
8 except that no rate of pay fixed under this sub-  
9 section may exceed the equivalent of that payable for  
10 a position at level V of the Executive Schedule under  
11 section 5316 of title 5, United States Code.

12 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

13 (A) IN GENERAL.—The executive director  
14 and any personnel of the Commission who are  
15 employees shall be employees under section  
16 2105 of title 5, United States Code, for pur-  
17 poses of chapters 63, 81, 83, 84, 85, 87, 89,  
18 and 90 of that title.

19 (B) MEMBERS OF COMMISSION.—Subpara-  
20 graph (A) shall not be construed to apply to  
21 members of the Commission.

22 (4) THE COMPENSATION OF COMMISSIONERS.—  
23 Each member of the Commission may be com-  
24 pensated at not to exceed the daily equivalent of the  
25 annual rate of basic pay in effect for a position at



1 level V of the Executive Schedule under section 5315  
2 of title 5, United States Code, for each day during  
3 which that member is engaged in the actual per-  
4 formance of the duties of the Commission. All mem-  
5 bers of the Commission who are officers or employ-  
6 ees of the United States, State, or local government  
7 shall serve without compensation in addition to that  
8 received for their services as officers or employees.

9 (5) TRAVEL EXPENSES.—While away from  
10 their homes or regular places of business in the per-  
11 formance of services for the Commission, members  
12 of the Commission shall be allowed travel expenses,  
13 including per diem in lieu of subsistence, in the  
14 same manner as persons employed intermittently in  
15 the Government service are allowed expenses under  
16 section 5703(b) of title 5, United States Code.

17 (b) EXPERTS AND CONSULTANTS.—With the ap-  
18 proval of the Commission, the Executive Director may  
19 procure temporary and intermittent services under section  
20 3109(b) of title 5, United States Code.

21 (c) DETAIL OF GOVERNMENT EMPLOYEES.—Upon  
22 the request of the Commission, the head of any Federal  
23 agency may detail, without reimbursement, any of the per-  
24 sonnel of such agency to the Commission to assist in car-  
25 rying out the duties of the Commission. Any such detail

1 shall not interrupt or otherwise affect the civil service sta-  
2 tus or privileges of the Federal employee.

3 (d) OTHER RESOURCES.—The Commission shall  
4 have reasonable access to materials, resources, statistical  
5 data, and other information such Commission determines  
6 to be necessary to carry out its duties from the Library  
7 of Congress, the Department of Justice, the Office of Na-  
8 tional Drug Control Policy, the Department of State, and  
9 other agencies of the executive and legislative branches of  
10 the Federal Government. The co-chairs of the Commission  
11 shall make requests for such access in writing when nec-  
12 essary.

13 (e) VOLUNTEER SERVICES.—Notwithstanding the  
14 provisions of section 1342 of title 31, United States Code,  
15 the Commission is authorized to accept and utilize the  
16 services of volunteers serving without compensation. The  
17 Commission may reimburse such volunteers for local travel  
18 and office supplies, and for other travel expenses, includ-  
19 ing per diem in lieu of subsistence, as authorized by sec-  
20 tion 5703 of title 5, United States Code. A person pro-  
21 viding volunteer services to the Commission shall be con-  
22 sidered an employee of the Federal Government in per-  
23 formance of those services for the purposes of chapter 81  
24 of title 5, United States Code, relating to compensation  
25 for work-related injuries, chapter 171 of title 28, United

1 States Code, relating to tort claims, and chapter 11 of  
2 title 18, United States Code, relating to conflicts of inter-  
3 est.

4 (f) OBTAINING OFFICIAL DATA.—The Commission  
5 may secure directly from any agency of the United States  
6 information necessary to enable it to carry out this Act.  
7 Upon the request of the co-chairs of the Commission, the  
8 head of that department or agency shall furnish that infor-  
9 mation to the Commission. The Commission shall not have  
10 access to sensitive information regarding ongoing inves-  
11 tigation.

12 (g) MAILS.—The Commission may use the United  
13 States mails in the same manner and under the same con-  
14 ditions as other departments and agencies of the United  
15 States.

16 (h) ADMINISTRATIVE REPORTING.—The Commission  
17 shall issue biannual status reports to Congress regarding  
18 the use of resources, salaries, and all expenditures of ap-  
19 propriated funds.

20 (i) CONTRACTS.—The Commission is authorized to  
21 enter into contracts with Federal and State agencies, pri-  
22 vate firms, institutions, and individuals for the conduct of  
23 activities necessary to the discharge of its duties and re-  
24 sponsibilities. A contract, lease or other legal agreement

1 entered into by the Commission may not extend beyond  
2 the date of the termination of the Commission.

3 (j) GIFTS.—Subject to existing law, the Commission  
4 may accept, use, and dispose of gifts or donations of serv-  
5 ices or property.

6 (k) ADMINISTRATIVE ASSISTANCE.—The Adminis-  
7 trator of General Services shall provide to the Commis-  
8 sion, on a reimbursable basis, the administrative support  
9 services necessary for the Commission to carry out its re-  
10 sponsibilities under this Act. These administrative services  
11 may include human resource management, budget, leas-  
12 ing, accounting, and payroll services.

13 (l) NONAPPLICABILITY OF FACCA AND PUBLIC AC-  
14 CESS TO MEETINGS AND MINUTES.—

15 (1) IN GENERAL.—The Federal Advisory Com-  
16 mittee Act (5 U.S.C. App.) shall not apply to the  
17 Commission.

18 (2) MEETINGS AND MINUTES.—

19 (A) MEETINGS.—

20 (i) ADMINISTRATION.—All meetings of  
21 the Commission shall be open to the pub-  
22 lic, except that a meeting or any portion of  
23 it may be closed to the public if it concerns  
24 matters or information described in section  
25 552b(c) of title 5, United States Code. In-

1           terested persons shall be permitted to ap-  
2           pear at open meetings and present oral or  
3           written statements on the subject matter  
4           of the meeting. The Commission may ad-  
5           minister oaths or affirmations to any per-  
6           son appearing before it.

7           (ii) NOTICE.—All open meetings of  
8           the Commission shall be preceded by time-  
9           ly public notice in the Federal Register of  
10          the time, place, and subject of the meeting.

11          (B) MINUTES AND PUBLIC AVAIL-  
12          ABILITY.—Minutes of each open meeting shall  
13          be kept and shall contain a record of the people  
14          present, a description of the discussion that oc-  
15          curred, and copies of all statements filed. The  
16          minutes and records of all open meetings and  
17          other documents that were made available to or  
18          prepared for the Commission shall be available  
19          for public inspection and copying at a single lo-  
20          cation in the offices of the Commission.

21          (m) ARCHIVING.—Not later than the date of termi-  
22          nation of the Commission, all records and papers of the  
23          Commission shall be delivered to the Archivist of the  
24          United States for deposit in the National Archives.

1 **SEC. 308. FUNDING.**

2 (a) DETERMINATION OF SAVINGS.—Not later than  
3 90 days after the date of enactment of this Act, the Direc-  
4 tor of the Office of Management and Budget shall deter-  
5 mine the total amount of savings projected to be realized  
6 by the implementation of title I during the 10-fiscal-year  
7 period beginning on the first day of the first fiscal year  
8 beginning after the date of enactment of this Act.

9 (b) TRANSFERS INTO FUND.—

10 (1) ESTABLISHMENT OF FUND.—There is es-  
11 tablished in the Treasury a fund to be known as the  
12 National Criminal Justice Commission Fund (re-  
13 ferred to in this section as the “Fund”).

14 (2) TRANSFERS.—Effective on the date on  
15 which the Director of the Office of Management and  
16 Budget determines the amount of savings under sub-  
17 section (a), the Secretary of the Treasury shall  
18 transfer from the general fund of the Treasury to  
19 the Fund an amount equal to the lesser of the  
20 amount of savings or \$14,000,000.

21 (3) USE OF FUNDS.—Of the amount trans-  
22 ferred to the Fund under paragraph (2)—

23 (A) 50 percent shall be available to the  
24 Commission without further appropriation to  
25 carry out this title for the first fiscal year after  
26 the date of enactment of this Act; and

1           (B) 50 percent shall be available to the  
2           Commission without further appropriation to  
3           carry out this title for the second fiscal year  
4           after the date of enactment of this Act.

5           (c) DISCRETIONARY SPENDING LIMITS ADJUST-  
6           MENT.—Section 251(b)(2) of the Balanced Budget and  
7           Emergency Deficit Control Act of 1985 (2 U.S.C.  
8           901(b)(2)) is amended by adding at the end the following:

9                   “(E) NATIONAL CRIMINAL JUSTICE COM-  
10           MISSION.—If amounts are transferred to the  
11           National Criminal Justice Commission Fund es-  
12           tablished under section 308(b) of the National  
13           Criminal Justice Commission Act of 2017, the  
14           adjustment shall be a reduction in the discre-  
15           tionary spending limit for the revised nonsecu-  
16           rity category—

17                   “(i) for the first fiscal year after the  
18           date of enactment of that Act, in an  
19           amount equal to 50 percent of the amount  
20           transferred to the Fund; and

21                   “(ii) for the second fiscal year after  
22           the date of enactment of that Act, in an  
23           amount equal to 50 percent of the amount  
24           transferred to the Fund.”.

25           (d) BUDGETARY EFFECTS.—

1           (1) STATUTORY PAYGO SCORECARDS.—The  
2 budgetary effects of this section shall not be entered  
3 on either PAYGO scorecard maintained pursuant to  
4 section 4(d) of the Statutory Pay-As-You-Go Act of  
5 2010.

6           (2) SENATE PAYGO SCORECARDS.—The budg-  
7 etary effects of this section shall not be entered on  
8 any PAYGO scorecard maintained for purposes of  
9 section 201 of S. Con. Res. 21 (110th Congress).

10 **SEC. 309. SUNSET.**

11       The Commission shall terminate 60 days after the  
12 Commission submits the report required under section 305  
13 to Congress.

○