

117TH CONGRESS
1ST SESSION

H. R. 4020

To reform United States drug policy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2021

Mrs. WATSON COLEMAN (for herself, Ms. BUSH, Ms. MOORE of Wisconsin, Mr. THOMPSON of Mississippi, Ms. PRESSLEY, Ms. OCASIO-CORTEZ, Mr. ESPAILLAT, Ms. LEE of California, Ms. OMAR, Mr. BOWMAN, and Ms. TLAIB) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Oversight and Reform, Financial Services, Transportation and Infrastructure, House Administration, Armed Services, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reform United States drug policy, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug Policy Reform
5 Act of 2021” or as the “DPR Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) For most of the past century the United
2 States has adopted increasingly punitive policies to-
3 ward the possession, use, and distribution of drugs.
4 Particularly in the last 50 years, the United States
5 has built a massive regime to enforce those policies.

6 (2) Congress and State legislatures have adopt-
7 ed increasingly harsh sentencing schemes such as
8 mandatory minimums, established far-reaching and
9 oppressive civil sanctions and collateral con-
10 sequences, approved policies weakening the Fourth
11 Amendment for drug searches and seizures, and fos-
12 tered incentives for aggressive and militarized polic-
13 ing in the alleged pursuit of drugs.

14 (3) Every year, there are more than 1.4 million
15 arrests in the United States for drug-related of-
16 fenses. In over 85 percent of those arrests, drug pos-
17 session was the most serious offense. Drug arrests
18 disproportionately impact people of color and more
19 commonly occur in historically overpoliced, low-in-
20 come communities. A criminal record, even for an
21 arrest that did not result in a conviction, has a pro-
22 found impact on individuals, often interrupting em-
23 ployment, housing, family relationships, child cus-
24 tody, and education.

1 (4) A health-based approach to drug use and
2 overdose is more effective, humane and cost-effective
3 than criminal punishments. Subjecting people to
4 criminal penalties, stigma, and other lasting collateral
5 consequences because they use drugs is expensive,
6 ruins lives, and can make access to treatment
7 and recovery more difficult.

8 (5) Despite high numbers of arrests and incarceration
9 in the United States for drug possession,
10 the number and rate of drug-involved overdose
11 deaths has skyrocketed for over 20 years and continues
12 at epidemic levels. In 2019, 70,630 people
13 died by drug overdose in the United States.

14 (6) Harm reduction services and voluntary, on-
15 demand access to evidence-based substance use disorder
16 treatment have proven highly effective in reducing
17 overdose and the spread of communicable
18 diseases like HIV and Hepatitis C, preventing drug-
19 related injury, and improving health outcomes for
20 people who use drugs. These services should be
21 available on demand to anyone who requests it.

22 (7) Far too many people who desire treatment
23 face challenges that prevent them from accessing the
24 services they want, including cost barriers, lack of
25 providers, and long wait-lists. On-demand access to

1 evidence-based treatment saves lives, reduces crime,
2 and saves money. Barriers to treatment should be
3 removed or minimized.

4 (8) Criminalizing drug use and possession re-
5 duces the amount of resources available for harm re-
6 duction and treatment services and deters people
7 from accessing available services due to fear of ar-
8 rest.

9 (9) Punitive policies have achieved no reduction
10 in supplies or prices, but instead have created un-
11 necessarily risky and harmful conditions for people
12 who use drugs.

13 (10) Punitive policies have led to militarized
14 tactics that thwart the spirit of the constitution and
15 have led to the deaths of countless Black and Brown
16 people. Additionally, the drug war apparatus has
17 cost the Federal Government hundreds of billions of
18 dollars in direct enforcement and incarceration costs,
19 and collateral impacts on the lives of those caught
20 in its path.

21 (11) While drug decriminalization cannot fully
22 repair our broken and oppressive criminal legal sys-
23 tem or the harms of an unregulated drug market,
24 shifting from absolute prohibition to drug decrimi-
25 nalization helps restore individual liberty, protect

1 against some police abuses, better assist those in
2 need, and save tax dollars.

3 (12) This concept is neither new nor radical.
4 Other nations, including Portugal, have successfully
5 decriminalized personal use quantities of drugs and
6 achieved meaningful improvements in treating prob-
7 lematic drug use and reducing the harms of policing
8 drugs.

9 (13) In June 2021, the United States will mark
10 the 50th anniversary of Congress' enactment of the
11 Controlled Substances Act (21 U.S.C. 801 et seq.),
12 which authorized and launched the harsh drug war
13 policies sought by the Nixon Administration. In this
14 moment, Congress must recognize the failed experi-
15 ment in prohibition and move the country in a new
16 direction.

17 **SEC. 3. SENSE OF CONGRESS.**

18 It is the sense of Congress that the United States
19 should—

20 (1) refocus its strategies for addressing sub-
21 stance use disorder and dangerous drug use from
22 strategies focused on controlling and punishing un-
23 authorized drug possession to a system that is
24 health focused, evidence-based, and respectful of
25 self-determination;

1 (2) invest in harm-reduction services and sub-
2 stance use disorder treatment to help prevent over-
3 dose and other health risks, and strengthen connec-
4 tions to services that provide foundational social and
5 economic support; and

6 (3) pursue international treaties that expand
7 flexibility for signatories to enact non-punitive strat-
8 egies to address the health and safety of people who
9 use drugs, including the decriminalization of the
10 possession, purchase, or cultivation of personal use
11 quantities of drugs.

12 **SEC. 4. SHIFT REGULATORY AUTHORITY.**

13 (a) **AUTHORITY AND CRITERIA FOR CLASSIFICATION**
14 **OF SUBSTANCES.**—Section 201 of the Controlled Sub-
15 stances Act (21 U.S.C. 811) is amended by striking “At-
16 torney General” and inserting “Secretary of Health and
17 Human Services” each place it appears.

18 (b) **REMOVAL OF EXEMPTION OF CERTAIN DRUGS.**—
19 Section 204 of the Controlled Substances Act (21 U.S.C.
20 814) is amended by striking “Attorney General” and in-
21 serting “Secretary of Health and Human Services” each
22 place it appears.

23 (c) **TRANSFER PLAN.**—

24 (1) **REPORT TO CONGRESS.**—Not later than
25 180 days after the date of the enactment of this Act,

1 the Attorney General and the Secretary of Health
2 and Human Services shall jointly develop and sub-
3 mit to the Congress a plan for transferring informa-
4 tion necessary to effect the transfer of classification
5 responsibility required under this section.

6 (2) REPORT TO GENERAL SERVICES ADMINIS-
7 TRATION.—Not later than 180 days after the date
8 of the enactment of this Act, the Attorney General
9 shall transmit to the Administrator of the General
10 Services Administration a report that specifies the
11 property that is specific to the functions to be trans-
12 ferred to the Secretary of Health and Human Serv-
13 ices pursuant to this section.

14 **SEC. 5. ELIMINATE CRIMINAL PENALTIES FOR PERSONAL**
15 **USE POSSESSION.**

16 (a) IN GENERAL.—Section 404 of the Controlled
17 Substances Act (21 U.S.C. 844) is amended by adding at
18 the end the following new subsection:

19 “(b) PERSONAL USE EXCEPTION.—(1) A person pos-
20 sessing or using a controlled substance in an amount no
21 greater than the benchmark amount (determined by the
22 Commission on Substance Use, Health, and Safety estab-
23 lished by the Drug Policy Reform Act of 2021) shall not
24 be subject to a criminal or civil penalty under this section.

1 “(2) The suspected possession or use of a controlled
2 substance in an amount no greater than the benchmark
3 amount (determined by the Commission on Substance
4 Use, Health, and Safety established by the Drug Policy
5 Reform Act of 2021) shall not constitute a basis for de-
6 taining, searching, arresting, questioning or surveilling
7 any person, or seizing property including, controlled sub-
8 stances and any items used for the ingestion, consump-
9 tion, preparation, packaging, or storage of a controlled
10 substance.

11 “(3) The suspected possession or use of a controlled
12 substance in an amount no greater than the benchmark
13 amount shall not constitute a basis for any referral to any
14 immigration enforcement agency, U.S. Citizenship and
15 Immigration Services, U.S. Immigration and Customs En-
16 forcement, and U.S. Customs and Border Protection.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall take effect on the date that is 180
19 days after the date of the enactment of this Act.

20 (c) REPEAL.—Section 405 of the Controlled Sub-
21 stances Act (21 U.S.C. 844a) is repealed.

22 **SEC. 6. COMMISSION ON SUBSTANCE USE, HEALTH, AND**
23 **SAFETY.**

24 (a) ESTABLISHMENT.—Not later than 180 days after
25 the date of the enactment of this Act, the Secretary of

1 Health and Human Services shall establish a “Commis-
2 sion on Substance Use, Health, and Safety” (hereinafter
3 known as the “Commission”).

4 (b) PURPOSE.—

5 (1) BENCHMARKS.—

6 (A) IN GENERAL.—The Commission under
7 paragraph (1) shall determine a benchmark
8 amount for a controlled substance. The Com-
9 mission shall consist of people with current or
10 past substance use needs and qualified persons
11 in the fields of general and behavioral
12 healthcare, harm reduction, and substance use
13 disorder treatment. Priority shall be given to
14 people who have lived experience with substance
15 use needs the quantity of drug commonly pos-
16 sessed by an individual benchmark personal use
17 supply, for controlled substances.

18 (B) DUTIES.—The Commission shall con-
19 sider the following in developing the bench-
20 marks under subparagraph (A)—

21 (i) common patterns of use by typical
22 consumers of the drug;

23 (ii) differences in commonly possessed
24 quantities resulting from factors relating
25 to geography, income, employment, and

1 other related demographic characteristics;
2 and
3 (iii) differences in commonly pos-
4 sessed quantities resulting from varying
5 modes of use.

6 (2) REDUCED CRIMINALIZATION.—Benchmarks
7 advised by the Commission under subparagraph (A)
8 shall be developed consistent with the intent of this
9 Act to reduce criminalization of personal drug use.

10 (c) MEMBERSHIP.—The Commission under sub-
11 section (a) shall be composed of at least 18 members and
12 shall include:

13 (1) VOTING MEMBERS.—

14 (A) Four individuals who have either used
15 controlled substances or are using controlled
16 substances on the date of the enactment of this
17 Act.

18 (B) Two members of communities that
19 have been disproportionately impacted by ar-
20 rests, prosecution or sentencing for drug of-
21 fenses.

22 (C) One peer support specialist.

23 (D) A harm reduction service provider.

1 (E) A person specializing in housing serv-
2 ices for people with substance use needs or
3 mental health needs.

4 (F) A physician specializing in addiction
5 medicine and with expertise in the treatment of
6 opioid use disorders with methadone or
7 buprenorphine.

8 (G) A provider of evidence-based substance
9 use disorder treatment.

10 (H) A provider of evidence-based services
11 for people with co-occurring mental health and
12 substance use needs.

13 (I) A licensed clinical social worker with
14 expertise in providing intensive case manage-
15 ment to people with substance use needs.

16 (J) A person who works for a nonprofit or-
17 ganization that advocates for persons with sub-
18 stance use needs.

19 (K) An expert on legal reform who is not
20 a law enforcement officer.

21 (L) An academic researcher specializing in
22 drug use or drug policy.

23 (M) A person who represents the needs of
24 and concerns of Indigenous communities.

1 (2) NON-VOTING MEMBER.—A designee of a
2 State Health Agency shall serve on the Commission
3 as a non-voting member.

4 (d) TERMS.—A member of the Commission shall
5 serve for a term of three years and may be reappointed
6 by the Secretary for additional terms thereafter.

7 (e) MEETINGS.—Not later than 180 days after the
8 date of the enactment of this Act, and at minimum four
9 times per calendar year thereafter, the Commission shall
10 convene to establish and review the benchmarks estab-
11 lished under paragraph (2) and make any necessary
12 amendments or further guidance with respect to the re-
13 sponsibilities of the Commission.

14 (f) REPORTING.—

15 (1) PERSONAL USE GUIDELINES.—Not later
16 than 18 months after the date of the enactment of
17 this Act, the Secretary shall publish online on the
18 internet website of the Department of Health and
19 Human Services a report on personal use guidelines,
20 including—

21 (A) guidelines for the benchmark personal
22 use supply for each drug; and

23 (B) recommendations for preventing the
24 prosecution of individuals possessing, distrib-
25 uting, or dispensing personal use quantities of

1 each drug for purposes of subsistence distribu-
2 tion.

3 (2) REPORT TO DEPARTMENT OF JUSTICE.—
4 Not later than one year after the date of the enact-
5 ment of this Act, the report on personal use guide-
6 lines published under paragraph (1) shall be trans-
7 mitted to the Attorney General.

8 (3) REPORT TO CONGRESS.—Not later than one
9 year after the date of the enactment of this Act the
10 report on personal use guidelines published under
11 paragraph (1) shall be transmitted to the Attorney
12 General.

13 (4) REPORT TO THE FEDERAL COURTS.—Not
14 later than one year after the date of the enactment
15 of this Act, the report on personal use guidelines
16 published under paragraph (1) shall be transmitted
17 to each Federal district court.

18 (5) REPORT TO THE CHIEF LAW ENFORCEMENT
19 OFFICER OF EACH STATE.—Not later than one year
20 after the date of the enactment of this Act, the re-
21 port on personal use guidelines published under
22 paragraph (1) shall be transmitted to each chief law
23 enforcement officer of each State.

24 (g) DEFINITIONS.—In this subsection:

1 (1) BENCHMARK PERSONAL USE SUPPLY.—The
2 term “benchmark personal use supply” means the
3 amount of a drug commonly possessed for consump-
4 tion by an individual for any therapeutic, medicinal,
5 recreational purpose.

6 (2) CONTROLLED SUBSTANCE.—The term
7 “controlled substance” shall have the same meaning
8 given such term in section 102 of the Controlled
9 Substances Act (21 U.S.C. 802).

10 (3) SUBSISTENCE DISTRIBUTION.—The term
11 “subsistence distribution” means the unlawful dis-
12 tribution or dispensing of a drug by a person in
13 quantities consistent with supporting that person’s
14 drug addiction or ensuring basic food and shelter
15 necessary to support life, and possession of no more
16 than a benchmark personal use supply.

17 (4) HARM REDUCTION SERVICES.—The term
18 “harm reduction services” means services and poli-
19 cies that lessen the adverse consequences of drug use
20 and protect public health, including but not limited
21 to overdose prevention education, access to naloxone
22 hydrochloride and sterile syringes, and stimulant-
23 specific drug education and outreach.

1 **SEC. 7. EXPUNGEMENT AND SEALING OF RECORDS.**

2 (a) AUTOMATIC SEALING CERTAIN RECORDS.—Not
3 later than one year after the date of the enactment of this
4 Act, each Federal district court shall conduct a com-
5 prehensive review to identify individuals eligible to have
6 a record of conviction or adjudication of juvenile delin-
7 quency that may be sealed pursuant to this Act and shall
8 issue an order expunging each conviction or adjudication
9 for a Federal offense entered by each Federal court in the
10 district for a conviction of possession of a controlled sub-
11 stance in an amount equal to or less than the benchmark
12 amount established under this Act.

13 (b) ARRESTS.—The Federal court shall issue an
14 order expunging any arrest by a Federal law enforcement
15 agency with respect to an expunged conviction or adjudica-
16 tion of juvenile delinquency under subsection (a).

17 (c) EFFECT OF EXPUNGEMENT.—An individual who
18 has had an arrest, conviction, or adjudication of juvenile
19 delinquency expunged under this section—

20 (1) may treat the arrest, conviction, or adju-
21 dication as if it never occurred; and

22 (2) shall be immune from any civil or criminal
23 penalties related to perjury, false swearing, or false
24 statements, for a failure to disclose such arrest, con-
25 viction, or adjudication.

1 (d) NOTIFICATION.—To the extent practicable, each
2 Federal district court shall notify each individual whose
3 arrest, conviction, or adjudication of juvenile delinquency
4 has been expunged under this section and the effect of
5 such expungement.

6 (e) RIGHT TO PETITION FOR SEALING.—After the
7 date of the enactment of this Act, an individual with a
8 conviction or adjudication of juvenile delinquency for an
9 eligible offense not sealed pursuant to subsection (a) may
10 file a motion for expungement. If the expungement of such
11 a conviction or adjudication of juvenile delinquency is re-
12 quired pursuant to this Act, the court shall expunge the
13 conviction or adjudication, and any associated arrests. If
14 the individual is indigent, counsel shall be appointed to
15 represent the individual in any proceedings under this sub-
16 section.

17 (f) FEES PROHIBITED.—No fee shall be imposed for
18 filing a petition or any proceeding provided for under this
19 section.

20 (g) EXPUNGE DEFINED.—In this subsection, the
21 term “expunge” means, with respect to an arrest, a con-
22 viction, or adjudication of juvenile delinquency, the re-
23 moval of the record of such arrest, conviction, or adjudica-
24 tion from each official index and public record.

1 **SEC. 8. RELIEF FOR INDIVIDUALS INCARCERATED OR ON**
2 **SUPERVISION FOR CERTAIN DRUG CONVIC-**
3 **TIONS.**

4 (a) IN GENERAL.—Not later than 30 days after the
5 date of the enactment of this Act, an individual under a
6 criminal justice sentence for an eligible offense, the court
7 that imposed the sentence shall conduct a sentencing re-
8 view hearing.

9 (b) RESULTS OF A SENTENCING HEARING.—Fol-
10 lowing a sentencing review hearing under subsection (a),
11 a court shall:

12 (1) Vacate the existing sentence or disposition
13 of juvenile delinquency for any eligible offense.

14 (2) Order that all records related to a convic-
15 tion or adjudication of juvenile delinquency that has
16 been vacated be sealed and only be made available
17 by further order of the court.

18 (c) INDIGENT REPRESENTATION.—If the individual
19 is indigent, counsel shall be appointed to represent the in-
20 dividual in any sentencing review proceedings under this
21 section.

22 **SEC. 9. ELIMINATING COLLATERAL CONSEQUENCES OF**
23 **DRUG POSSESSION CONVICTIONS.**

24 (a) DRUG TESTING FOR FEDERAL BENEFITS.—No
25 person shall be denied access to or prohibited from receiv-
26 ing any Federal benefit, program, or supportive service

1 otherwise available on the basis of having been previously
2 convicted of or having a pending criminal case involving
3 the possession of a controlled substance.

4 (b) FOOD BENEFITS AND FAMILY ASSISTANCE.—
5 Section 421a of the Controlled Substances Act (21 U.S.C.
6 862a) is repealed.

7 (c) PROHIBITING DENIAL OF HOUSING ASSIST-
8 ANCE.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law, an applicant shall be denied assist-
11 ance, evicted, or considered ineligible for housing as-
12 sistance under title 8 of the Civil Rights Act of 1968
13 by reason of possession of a controlled substance.

14 (2) REPEAL.—Section 6(t) of the United States
15 Housing Act of 1937 (42 U.S.C. 1437d(t)) is re-
16 pealed.

17 (d) OTHER FEDERAL BENEFITS.—Section 421(b) of
18 the Controlled Substances Act (21 U.S.C. 862(b)) is re-
19 pealed.

20 (e) ELIMINATE IMMIGRATION AND REMOVAL CON-
21 SEQUENCES.—Section 101(a)(43) of the Immigration and
22 Nationality Act (8 U.S.C. 1101(a)(43)) is amended by
23 striking paragraph (43) and inserting the following new
24 paragraph:

1 “(43) AGGRAVATED FELONY.—The term ‘ag-
2 gravated felony’ means—

3 “(A) murder, rape, or sexual abuse of a
4 minor;

5 “(B) illicit trafficking in a controlled sub-
6 stance (as defined in section 102 of the Con-
7 trolled Substances Act (21 U.S.C. 802)), in-
8 cluding a drug trafficking crime (as defined in
9 section 924(c) of title 18).

10 “‘except that no applicant shall be denied assist-
11 ance, evicted, or deemed ineligible under this title by
12 reason of conviction for possessing a controlled sub-
13 stance for personal use.’”.

14 (f) DRIVERS’ LICENSES OF INDIVIDUALS CONVICTED
15 OF DRUG OFFENSES.—Section 159 of title 23, United
16 States Code, is repealed.

17 **SEC. 10. PROTECT VOTING RIGHTS.**

18 (a) FINDINGS.—Congress makes the following find-
19 ings:

20 (1) The right to vote is the most basic constitu-
21 tive act of citizenship. Regaining the right to vote
22 reintegrates individuals with criminal convictions
23 into free society, helping to enhance public safety.

24 (2) Article I, section 4, of the Constitution
25 grants Congress ultimate supervisory power over

1 Federal elections, an authority which has repeatedly
2 been upheld by the Supreme Court.

3 (3) Basic constitutional principles of fairness
4 and equal protection require an equal opportunity
5 for citizens of the United States to vote in Federal
6 elections. The right to vote may not be abridged or
7 denied by the United States or by any State on ac-
8 count of race, color, gender, or previous condition of
9 servitude. The 13th, 14th, 15th, 19th, 24th, and
10 26th Amendments to the Constitution empower Con-
11 gress to enact measures to protect the right to vote
12 in Federal elections. The 8th Amendment to the
13 Constitution provides for no excessive bail to be re-
14 quired, nor excessive fines imposed, nor cruel and
15 unusual punishments inflicted.

16 (4) There are 3 areas in which discrepancies in
17 State laws regarding criminal convictions lead to un-
18 fairness in Federal elections:

19 (A) The lack of a uniform standard for
20 voting in Federal elections leads to an unfair
21 disparity and unequal participation in Federal
22 elections based solely on where a person lives.

23 (B) Laws governing the restoration of vot-
24 ing rights after a criminal conviction vary
25 throughout the country, and persons in some

1 States can easily regain their voting rights
2 while in other States persons effectively lose
3 their right to vote permanently.

4 (C) State disenfranchisement laws dis-
5 proportionately impact racial and ethnic minori-
6 ties.

7 (5) Two States (Maine and Vermont), the Dis-
8 trict of Columbia, and the Commonwealth of Puerto
9 Rico do not disenfranchise individuals with criminal
10 convictions at all, but 48 States have laws that deny
11 convicted individuals the right to vote while they are
12 in prison.

13 (6) In some States disenfranchisement results
14 from varying State laws that restrict voting while in-
15 dividuals are under the supervision of the criminal
16 justice system or after they have completed a crimi-
17 nal sentence. In 30 States, convicted individuals may
18 not vote while they are on parole and 27 States dis-
19 enfranchise individuals on felony probation as well.
20 In 11 States, a conviction can result in lifetime dis-
21 enfranchisement.

22 (7) Several States deny the right to vote to in-
23 dividuals convicted of certain misdemeanors.

24 (8) An estimated 5,200,000 citizens of the
25 United States, or about 1 in 44 adults in the United

1 States, currently cannot vote as a result of a felony
2 conviction. Of the 5,200,000 citizens barred from
3 voting, only 24 percent are in prison. By contrast,
4 75 percent of the disenfranchised reside in their
5 communities while on probation or parole or after
6 having completed their sentences. Approximately
7 2,200,000 citizens who have completed their sen-
8 tences remain disenfranchised due to restrictive
9 State laws. In at least 6 States—Alabama, Florida,
10 Kentucky, Mississippi, Tennessee, and Virginia—
11 more than 5 percent of the total voting-age popu-
12 lation is disenfranchised.

13 (9) In those States that disenfranchise individ-
14 uals post-sentence, the right to vote can be regained
15 in theory, but in practice this possibility is often
16 granted in a non-uniform and potentially discrimina-
17 tory manner. Disenfranchised individuals must ei-
18 ther obtain a pardon or an order from the Governor
19 or an action by the parole or pardon board, depend-
20 ing on the offense and State. Individuals convicted
21 of a Federal offense often have additional barriers to
22 regaining voting rights.

23 (10) State disenfranchisement laws dispropor-
24 tionately impact racial and ethnic minorities. More
25 than 6 percent of the African-American voting-age

1 population, or 1,800,000 African Americans, are
2 disenfranchised. Currently, 1 of every 16 voting-age
3 African Americans are rendered unable to vote be-
4 cause of felony disenfranchisement, which is a rate
5 more than 3.7 times greater than non-African Amer-
6 icans. Over 6 percent of African-American adults are
7 disenfranchised whereas only 1.7 percent of non-Af-
8 rican Americans are. In 7 States (Alabama, 16 per-
9 cent; Florida, 15 percent; Kentucky, 15 percent;
10 Mississippi, 16 percent; Tennessee, 21 percent; Vir-
11 ginia, 16 percent; and Wyoming, 36 percent), more
12 than 1 in 7 African Americans are unable to vote
13 because of prior convictions, twice the national aver-
14 age for African Americans.

15 (11) Latino citizens are disproportionately
16 disenfranchised based upon their disproportionate
17 representation in the criminal justice system. In re-
18 cent years, Latinos have been imprisoned at 2.5
19 times the rate of Whites. More than 2 percent of the
20 voting-age Latino population, or 560,000 Latinos,
21 are disenfranchised due to a felony conviction. In 34
22 states Latinos are disenfranchised at a higher rate
23 than the general population. In 11 states 4 percent
24 or more of Latino adults are disenfranchised due to
25 a felony conviction (Alabama, 4 percent; Arizona, 7

1 percent; Arkansas, 4 percent; Idaho, 4 percent;
2 Iowa, 4 percent; Kentucky, 6 percent; Minnesota, 4
3 percent; Mississippi, 5 percent; Nebraska, 6 percent;
4 Tennessee, 11 percent, Wyoming, 4 percent), twice
5 the national average for Latinos.

6 (12) Disenfranchising citizens who have been
7 convicted of a criminal offense and who are living
8 and working in the community serves no compelling
9 State interest and hinders their rehabilitation and
10 reintegration into society.

11 (13) State disenfranchisement laws can sup-
12 press electoral participation among eligible voters by
13 discouraging voting among family and community
14 members of disenfranchised persons. Future elec-
15 toral participation by the children of disenfranchised
16 parents may be impacted as well.

17 (14) The United States is the only Western de-
18 mocracy that permits the permanent denial of voting
19 rights for individuals with felony convictions.

20 (b) RIGHTS OF CITIZENS.—The right of an individual
21 who is a citizen of the United States to vote in any election
22 for Federal office shall not be denied or abridged because
23 that individual has been convicted of a criminal offense.

24 (c) ENFORCEMENT.—

1 (1) ATTORNEY GENERAL.—The Attorney Gen-
2 eral may, in a civil action, obtain such declaratory
3 or injunctive relief as is necessary to remedy a viola-
4 tion of this section.

5 (2) PRIVATE RIGHT OF ACTION.—

6 (A) IN GENERAL.—A person who is ag-
7 grieved by a violation of this subsection may
8 provide written notice of the violation to the
9 chief election official of the State involved.

10 (B) RELIEF.—Except as provided in clause
11 (iii), if the violation is not corrected within 90
12 days after receipt of a notice under clause (i),
13 or within 20 days after receipt of the notice if
14 the violation occurred within 120 days before
15 the date of an election for Federal office, the
16 aggrieved person may, in a civil action, obtain
17 declaratory or injunctive relief with respect to
18 the violation.

19 (C) EXCEPTION.—If the violation occurred
20 within 30 days before the date of an election for
21 Federal office, the aggrieved person need not
22 provide notice to the chief election official of the
23 State under clause (i) before bringing a civil ac-
24 tion to obtain declaratory or injunctive relief
25 with respect to the violation.

1 (d) NOTIFICATION OF RESTORATION OF VOTING
2 RIGHTS.—

3 (1) STATE NOTIFICATION.—

4 (A) NOTIFICATION.—On the date deter-
5 mined under clause (ii), each State shall notify
6 in writing any individual who has been con-
7 victed of a criminal offense under the law of
8 that State that such individual has the right to
9 vote in an election for Federal office pursuant
10 to the Democracy Restoration Act of 2021 and
11 may register to vote in any such election and
12 provide such individual with any materials that
13 are necessary to register to vote in any such
14 election.

15 (B) DATE OF NOTIFICATION.—

16 (i) FELONY CONVICTION.—In the case
17 of such an individual who has been con-
18 victed of a felony, the notification required
19 under clause (i) shall be given on the date
20 on which the individual—

21 (I) is sentenced to serve only a
22 term of probation; or

23 (II) is released from the custody
24 of that State (other than to the cus-
25 tody of another State or the Federal

1 Government to serve a term of impris-
2 onment for a felony conviction).

3 (C) MISDEMEANOR CONVICTION.—In the
4 case of such an individual who has been con-
5 victed of a misdemeanor, the notification re-
6 quired under clause (ii) shall be given on the
7 date on which such individual is sentenced by a
8 State court.

9 (2) FEDERAL NOTIFICATION.—

10 (A) NOTIFICATION.—Any individual who
11 has been convicted of a criminal offense under
12 Federal law shall be notified in accordance with
13 clause (ii) that such individual has the right to
14 vote in an election for Federal office pursuant
15 to the Democracy Restoration Act of 2021 and
16 may register to vote in any such election and
17 provide such individual with any materials that
18 are necessary to register to vote in any such
19 election.

20 (B) DATE OF NOTIFICATION.—

21 (i) FELONY CONVICTION.—In the case
22 of such an individual who has been con-
23 victed of a felony, the notification required
24 under clause (i) shall be given—

1 (I) in the case of an individual
2 who is sentenced to serve only a term
3 of probation, by the Assistant Direc-
4 tor for the Office of Probation and
5 Pretrial Services of the Administrative
6 Office of the United States Courts on
7 the date on which the individual is
8 sentenced; or

9 (II) in the case of any individual
10 committed to the custody of the Bu-
11 reau of Prisons, by the Director of the
12 Bureau of Prisons, during the period
13 beginning on the date that is 6
14 months before such individual is re-
15 leased and ending on the date such in-
16 dividual is released from the custody
17 of the Bureau of Prisons.

18 (ii) MISDEMEANOR CONVICTION.—In
19 the case of such an individual who has
20 been convicted of a misdemeanor, the noti-
21 fication required under clause (i) shall be
22 given on the date on which such individual
23 is sentenced by a court established by an
24 Act of Congress.

25 (e) RELATION TO OTHER LAWS.—

1 (1) STATE LAWS RELATING TO VOTING
2 RIGHTS.—Nothing in this section shall be construed
3 to prohibit the States from enacting any State law
4 which affords the right to vote in any election for
5 Federal office on terms less restrictive than those es-
6 tablished by this section.

7 (2) CERTAIN FEDERAL ACTS.—The rights and
8 remedies established by this section are in addition
9 to all other rights and remedies provided by law, and
10 neither rights and remedies established by this Act
11 shall supersede, restrict, or limit the application of
12 the Voting Rights Act of 1965 (52 U.S.C. 10301 et
13 seq.) or the National Voter Registration Act of 1993
14 (52 U.S.C. 20501 et seq.).

15 (3) FEDERAL PRISON FUNDS.—No State, unit
16 of local government, or other person may receive or
17 use, to construct or otherwise improve a prison, jail,
18 or other place of incarceration, any Federal funds
19 unless that person has in effect a program under
20 which each individual incarcerated in that person’s
21 jurisdiction who is a citizen of the United States is
22 notified, upon release from such incarceration, of
23 that individual’s rights under section 1403.

24 (f) PROHIBITION ON CIVIL ASSET FORFEITURES.—
25 Section 413(a) of the Controlled Substances Act (21

1 U.S.C. 853(a)) is amended by striking “one year” and in-
2 serting “one year, except a person possessing a quantity
3 of controlled substance solely for personal consumption,”.

4 **SEC. 11. REINVEST FUNDS IN SUPPORTIVE PROGRAMS.**

5 (a) DRUG SAFETY GRANT PROGRAM.—

6 (1) ESTABLISHMENT.—Not later than one year
7 after the date of the enactment of this Act, the Sec-
8 retary of Health and Human Services shall establish
9 a grant program to support State and local efforts
10 to expand access to substance abuse treatment, sup-
11 port harm-reduction services, and reduce the crim-
12 inalization of individuals who use drugs by sup-
13 porting the development or expansion of pre-arrest
14 diversion programs.

15 (2) DUTIES.—The grant program shall enhance
16 programs that expand access to substance use treat-
17 ment, enhance the safety of individuals who use
18 drugs, and reduce the entry of individuals who use
19 drugs into the criminal legal system.

20 (3) ELIGIBLE ENTITIES.—

21 (A) IN GENERAL.—An eligible entity for a
22 grant under this paragraph shall be an existing
23 agency or organization, whether government or
24 community-based that are engaged in activities
25 designed to promote the health and welfare of

1 people who use drugs, facilitate the voluntary
2 treatment of individuals with substance use dis-
3 order, provide assistance to individuals as an al-
4 ternative to criminal prosecution, or provide al-
5 ternatives to law enforcement first response
6 services.

7 (B) EXCEPTION.—A law enforcement enti-
8 ty or program that is led principally by a law
9 enforcement entity are not eligible for grants
10 provided by the program.

11 (4) USE OF FUNDS.—An eligible entity under
12 this paragraph may use grant funds for purposes of
13 increasing access to—

14 (A) low barrier substance use disorder
15 treatment that is evidence-informed, trauma-in-
16 formed, culturally responsive, patient-centered,
17 and non-judgmental (including medication as-
18 sisted treatment);

19 (B) harm reduction programs and systems
20 for connecting individuals to harm reduction
21 interventions, including but not limited to over-
22 dose prevention education, access to naloxone
23 hydrochloride and sterile syringes, stimulant-
24 specific drug education and outreach, drug-
25 checking services;

- 1 (C) peer support and recovery services;
- 2 (D) non-police crisis-intervention and
- 3 emergency response programs;
- 4 (E) pre-arrest diversion programs; and
- 5 (F) transitional, supportive, and perma-
- 6 nent housing for persons with substance use
- 7 disorder.

8 (b) FINDINGS AND INTENT.—Section 101 of the Con-
9 trolled Substances Act (21 U.S.C. 801) is amended by
10 striking paragraphs (1), (2), (3), (4), (5), (6), and (7) and
11 inserting the following new paragraphs:

12 “(1) Evidence-based regulations and education
13 focused on protecting the health and safety of indi-
14 viduals who use controlled substances are necessary
15 to ensure the general welfare of American people.

16 “(2) Since the enactment of the Comprehensive
17 Drug Abuse Prevention and Control Act of 1970 the
18 United States has expended substantial sums of
19 funding on controlling personal consumption of con-
20 trolled substances while prohibiting many services
21 that could help ensure the safety of the consumer
22 drug products in common use and safer conditions
23 for individuals who use drugs. The United States
24 has spent over \$1 trillion on drug control since en-

1 actment of the Act and continues to spend over \$47
2 million annually.

3 “(3) Drug offenses are the leading cause of ar-
4 rest in the United States, remaining largely un-
5 changed from 2010–2019, during which time over
6 10 million arrests were made for drug possession.
7 Black individuals are arrested at rates far higher
8 than their representation in the population and in
9 far greater numbers than individuals in other demo-
10 graphic groups.

11 “(4) Drug arrests have significant collateral
12 consequences, interfering or denying access to edu-
13 cation, employment, housing, child custody, immi-
14 gration, and public benefits.

15 “(5) Drug control strategies focused on crim-
16 inalizing personal use of drugs have not achieved re-
17 ductions in the availability, prevalence of use, prices,
18 or incidence of drug overdose.

19 “(6) The criminalization of people who use
20 drugs reduces the availability of resources for evi-
21 dence-based compassionate drug education, addiction
22 health services, including substance abuse treatment
23 and medication assisted treatment, and other serv-
24 ices focused on the health and safety of consumers.

1 “(7) Federal regulation of controlled substances
2 pursuant to this subchapter shall promote the
3 health, safety and welfare of individuals who use
4 drugs and seek to prevent the harms of criminalizing
5 individual users of drugs.”.

6 **SEC. 12. EVIDENCE-BASED DRUG EDUCATION.**

7 (a) IN GENERAL.—Notwithstanding any other provi-
8 sion of law, and not later than 180 days after the date
9 of the enactment of this Act, the Attorney General shall
10 transfer certain programs to the Secretary of Health and
11 Human Services.

12 (b) FEDERAL FUNDS PROHIBITION.—Notwith-
13 standing any other provision of law, no Federal funds may
14 be used by the Attorney General for drug education pro-
15 gramming, including public education related to drug use,
16 unless that the Attorney General or designee may provide
17 information to the Secretary of Health and Human Serv-
18 ices in support of the Secretary’s responsibilities pursuant
19 to this section.

20 (c) PERSONNEL AND EQUIPMENT.—Notwithstanding
21 any provision of law, a transfer pursuant to paragraph (1)
22 shall include any personnel and equipment exclusively re-
23 sponsible for the administration of the certain programs.

24 (d) CERTAIN PROGRAM DEFINED.—The term “cer-
25 tain program” means Federal programs including:

- 1 (1) Access to recovery programs.
- 2 (2) Block grants for prevention and treatment
- 3 of substance abuse.
- 4 (3) Community transformation grants.
- 5 (4) Drug abuse and addiction research pro-
- 6 grams.
- 7 (5) Enhance the safety of children affected by
- 8 parental methamphetamine or other substance
- 9 abuse.
- 10 (6) Family connection grants.
- 11 (7) Using family group decision-making to build
- 12 protective factors for children and families.
- 13 (8) Health improvement for reentering ex-of-
- 14 fenders initiative.
- 15 (9) Healthy start initiative.
- 16 (10) HIV prevention activities nongovernmental
- 17 organization based in the United States.
- 18 (11) Maternal, infant and early childhood home
- 19 visiting program.
- 20 (12) Mentoring children of prisoners.
- 21 (13) National all schedules prescription elec-
- 22 tronic reporting grant.
- 23 (14) Project for assistance in transition from
- 24 homelessness.
- 25 (15) Promoting safe and stable homes.

1 (16) Strategic prevention framework.

2 (17) Substance abuse and mental health serv-
3 ices projects of regional and national significance.

4 (18) Urban Indian Health Services.

5 (e) PUBLIC EDUCATION REGARDING DRUGS AND
6 DRUG USE.—Notwithstanding any other provision of law,
7 any Federal funds used for designing, administering, or
8 supporting programs to provide education regarding drugs
9 or drug use shall provide scientifically-accurate, culturally
10 and gender competent, trauma-informed, and evidence-
11 based information about drug use and effects that can
12 help persons participating in such a program make healthy
13 choices about substance use and develop personal and so-
14 cial strategies to manage the risks, benefits, and potential
15 harms of substance use.

16 (f) IMPROVE RESEARCH ON IMPACTS OF DRUG CRIM-
17 INALIZATION AND ENFORCEMENT.—Notwithstanding any
18 other provision of law, and not later than one year after
19 the date of the enactment of this Act, the Attorney Gen-
20 eral shall transfer programs with respect to drugs and
21 crime to the Administrator of the Substance Abuse and
22 Mental Health Services Administration to expand research
23 on harms of criminalization and to study the effectiveness
24 of non-prohibitionist models of ensuring the health and
25 safety of individuals who use drugs.

1 **SEC. 13. DATA COLLECTION AND TRANSPARENCY.**

2 (a) **LOCALITY DATA.**—Not later than one year after
3 the date of the enactment of this Act, the Director of the
4 Federal Bureau of Investigation make publicly available
5 all available data, on a quarterly basis, regarding local en-
6 forcement of drug laws, including local arrests for drug
7 possession and distribution offenses, possession of drug
8 paraphernalia, public use or intoxication, loitering, and all
9 other drug-related violations.

10 (b) **NATIONAL INCIDENT-BASED REPORTING SYS-**
11 **TEM.**—Not later than one year after the date of the enact-
12 ment of this Act, the Director of the Federal Bureau of
13 Investigation shall make available on the internet website
14 of the Federal Bureau of Investigation any data provided
15 by localities to the National Incident-Based Reporting
16 System, including any aggregate data reported regarding
17 the alleged substances and quantities recovered, and de-
18 mographic data for persons arrested.

19 (c) **DEPARTMENT OF JUSTICE REPORTING.**—Not
20 later than one year after the date of the enactment of this
21 Act, and annually thereafter, the Attorney General shall
22 collect and make publicly available on the internet website
23 of the Department of Justice information from any unit
24 of local government that receives any Federal funding
25 identifying expenditures on drug offense enforcement.

1 **SEC. 14. LIMITATION OF ELIGIBILITY FOR FUNDS.**

2 Beginning in the first fiscal year that begins after
 3 the date that is one year after the date of enactment of
 4 this Act, a State or unit of local government may not re-
 5 ceive funds under subpart 1 of part E of title I of the
 6 Omnibus Crime Control and Safe Streets Act of 1968 (34
 7 U.S.C. 10151 et seq.) or the under section 1701 of title
 8 I of the Omnibus Crime Control and Safe Streets Act of
 9 1968 (34 U.S.C. 10381) for a fiscal year if, on the day
 10 before the first day of the fiscal year, the State or unit
 11 of local government has a law in effect that establishes
 12 criminal penalties for the possession of an amount of a
 13 controlled substance consistent with personal use.

14 **SEC. 15. PROHIBITION ON CRIMINAL HISTORY INQUIRIES**
 15 **PRIOR TO CONDITIONAL OFFER FOR FED-**
 16 **ERAL EMPLOYMENT.**

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

20 **“CHAPTER 92—PROHIBITION ON CRIMI-**
 21 **NAL HISTORY INQUIRIES PRIOR TO**
 22 **CONDITIONAL OFFER**

“Sec.

“9201. Definitions.

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

“9203. Agency policies; complaint procedures.

“9204. Adverse action.

“9205. Procedures.

“9206. Rules of construction.

1 **“§ 9201. Definitions**

2 “In this chapter—

3 “(1) the term ‘agency’ means ‘Executive agen-
4 cy’ as such term is defined in section 105 and in-
5 cludes—

6 “(A) the United States Postal Service and
7 the Postal Regulatory Commission; and

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

9 “(2) the term ‘appointing authority’ means an
10 employee in the executive branch of the Government
11 of the United States that has authority to make ap-
12 pointments to positions in the civil service;

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

17 “(4) the term ‘criminal history record informa-
18 tion’—

19 “(A) except as provided in subparagraphs
20 (B) and (C), has the meaning given the term in
21 section 9101(a);

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

25 “(C) includes information collected by a
26 criminal justice agency, relating to an act or al-

1 leged act of juvenile delinquency, that is analo-
2 gous to criminal history record information (in-
3 cluding such information that has been sealed
4 or expunged pursuant to law); and
5 “(5) the term ‘suspension’ has the meaning
6 given the term in section 7501.

7 **“§ 9202. Limitations on requests for criminal history**
8 **record information**

9 “(a) INQUIRIES PRIOR TO CONDITIONAL OFFER.—
10 Except as provided in subsections (b) and (c), an employee
11 of an agency may not request, in oral or written form (in-
12 cluding through the Declaration for Federal Employment
13 (Office of Personnel Management Optional Form 306) or
14 any similar successor form, the USAJOBS internet
15 website, or any other electronic means) that an applicant
16 for an appointment to a position in the civil service dis-
17 close criminal history record information regarding the ap-
18 plicant before the appointing authority extends a condi-
19 tional offer to the applicant.

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

1 “(c) EXCEPTION FOR CERTAIN POSITIONS.—

2 “(1) IN GENERAL.—The prohibition under sub-
3 section (a) shall not apply with respect to an appli-
4 cant for an appointment to a position—

5 “(A) that requires a determination of eligi-
6 bility described in clause (i), (ii), or (iii) of sec-
7 tion 9101(b)(1)(A);

8 “(B) as a Federal law enforcement officer
9 (as defined in section 115(c) of title 18); or

10 “(C) identified by the Director of the Of-
11 fice of Personnel Management in the regula-
12 tions issued under paragraph (2).

13 “(2) REGULATIONS.—

14 “(A) ISSUANCE.—The Director of the Of-
15 fice of Personnel Management shall issue regu-
16 lations identifying additional positions with re-
17 spect to which the prohibition under subsection
18 (a) shall not apply, giving due consideration to
19 positions that involve interaction with minors,
20 access to sensitive information, or managing fi-
21 nancial transactions.

22 “(B) COMPLIANCE WITH CIVIL RIGHTS
23 LAWS.—The regulations issued under subpara-
24 graph (A) shall—

1 “(i) be consistent with, and in no way
2 supersede, restrict, or limit the application
3 of title VII of the Civil Rights Act of 1964
4 (42 U.S.C. 2000e et seq.) or other relevant
5 Federal civil rights laws; and

6 “(ii) ensure that all hiring activities
7 conducted pursuant to the regulations are
8 conducted in a manner consistent with rel-
9 evant Federal civil rights laws.

10 **“§ 9203. Agency policies; complaint procedures**

11 “The Director of the Office of Personnel Manage-
12 ment shall—

13 “(1) develop, implement, and publish a policy to
14 assist employees of agencies in complying with sec-
15 tion 9202 and the regulations issued pursuant to
16 such section; and

17 “(2) establish and publish procedures under
18 which an applicant for an appointment to a position
19 in the civil service may submit a complaint, or any
20 other information, relating to compliance by an em-
21 ployee of an agency with section 9202.

22 **“§ 9204. Adverse action**

23 “(a) FIRST VIOLATION.—If the Director of the Office
24 of Personnel Management determines, after notice and an
25 opportunity for a hearing on the record, that an employee

1 of an agency has violated section 9202, the Director
2 shall—

3 “(1) issue to the employee a written warning
4 that includes a description of the violation and the
5 additional penalties that may apply for subsequent
6 violations; and

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

9 “(b) SUBSEQUENT VIOLATIONS.—If the Director of
10 the Office of Personnel Management determines, after no-
11 tice and an opportunity for a hearing on the record, that
12 an employee that was subject to subsection (a) has com-
13 mitted a subsequent violation of section 9202, the Director
14 may take the following action:

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

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

19 “(3) For a fourth violation—

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

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

24 “(4) For a fifth violation—

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

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

5 “(5) For any subsequent violation—

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

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

10 **“§ 9205. Procedures**

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

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

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

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

23 **“§ 9206. Rules of construction**

24 “Nothing in this chapter may be construed to—

(1) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Personnel Management shall issue such regulations as are necessary to carry out chapter 92 of title 5, United States Code (as added by this Act).

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

22 (d) APPLICATION TO LEGISLATIVE BRANCH.—

1 (1) IN GENERAL.—The Congressional Account-
 2 ability Act of 1995 (2 U.S.C. 1301 et seq.) is
 3 amended—

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

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

8 (B) by redesignating section 207 (2 U.S.C.
 9 1317) as section 208; and

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

12 **“SEC. 207. RIGHTS AND PROTECTIONS RELATING TO CRIMI-**
 13 **NAL HISTORY INQUIRIES.**

14 “(a) DEFINITIONS.—In this section, the terms ‘agen-
 15 cy’, ‘criminal history record information’, and ‘suspension’
 16 have the meanings given the terms in section 9201 of title
 17 5, United States Code, except as otherwise modified by
 18 this section.

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

21 “(1) IN GENERAL.—

22 “(A) IN GENERAL.—Except as provided in
 23 subparagraph (B), an employee of an employing
 24 office may not request that an applicant for em-
 25 ployment as a covered employee disclose crimi-

1 nal history record information if the request
2 would be prohibited under section 9202 of title
3 5, United States Code, if made by an employee
4 of an agency.

5 “(B) CONDITIONAL OFFER.—For purposes
6 of applying that section 9202 under subpara-
7 graph (A), a reference in that section 9202 to
8 a conditional offer shall be considered to be an
9 offer of employment as a covered employee that
10 is conditioned upon the results of a criminal
11 history inquiry.

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

16 “(c) REMEDY.—

17 “(1) IN GENERAL.—The remedy for a violation
18 of subsection (b)(1) shall be such remedy as would
19 be appropriate if awarded under section 9204 of title
20 5, United States Code, if the violation had been
21 committed by an employee of an agency, consistent
22 with regulations issued under subsection (d), except
23 that the reference in that section to a suspension
24 shall be considered to be a suspension with the level

1 of compensation provided for a covered employee
2 who is taking unpaid leave under section 202.

3 “(2) PROCESS FOR OBTAINING RELIEF.—An
4 applicant for employment as a covered employee who
5 alleges a violation of subsection (b)(1) may rely on
6 the provisions of title IV (other than section 407 or
7 408, or a provision of this title that permits a per-
8 son to obtain a civil action or judicial review), con-
9 sistent with regulations issued under subsection (d).

10 “(d) REGULATIONS TO IMPLEMENT SECTION.—

11 “(1) IN GENERAL.—Not later than 18 months
12 after the date of enactment of the Fair Chance to
13 Compete for Jobs Act of 2019, the Board shall, pur-
14 suant to section 304, issue regulations to implement
15 this section.

16 “(2) PARALLEL WITH AGENCY REGULATIONS.—
17 The regulations issued under paragraph (1) shall be
18 the same as substantive regulations issued by the
19 Director of the Office of Personnel Management
20 under section 2(b)(1) of the Fair Chance to Com-
21 pete for Jobs Act of 2019 to implement the statu-
22 tory provisions referred to in subsections (a) through
23 (c) except to the extent that the Board may deter-
24 mine, for good cause shown and stated together with
25 the regulation, that a modification of such regula-

1 tions would be more effective for the implementation
2 of the rights and protections under this section.

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

7 (2) CLERICAL AMENDMENTS.—

8 (A) The table of contents in section 1(b) of
9 the Congressional Accountability Act of 1995
10 (Public Law 104–1; 109 Stat. 3) is amended—

11 (i) by redesignating the item relating
12 to section 207 as the item relating to sec-
13 tion 208; and

14 (ii) by inserting after the item relating
15 to section 206 the following new item:

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

16 (B) Section 62(e)(2) of the Internal Rev-
17 enue Code of 1986 is amended by striking “or
18 207” and inserting “207, or 208”.

19 (e) APPLICATION TO JUDICIAL BRANCH.—

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

23 “(i) RESTRICTIONS ON CRIMINAL HISTORY INQUIR-
24 IES.—

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

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

4 “(B) the term ‘covered employee’ means an
5 employee of the judicial branch of the United
6 States Government, other than—

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

9 “(ii) a United States magistrate
10 judge; or

11 “(iii) a bankruptcy judge; and

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

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

22 “(3) EMPLOYING OFFICE POLICIES; COMPLAINT
23 PROCEDURE.—The provisions of sections 9203 and
24 9206 of title 5 shall apply to employing offices and
25 to applicants for employment as covered employees,

1 consistent with regulations issued by the Director to
2 implement this subsection.

3 “(4) ADVERSE ACTION.—

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

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

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

21 “(5) REGULATIONS TO BE ISSUED.—

22 “(A) IN GENERAL.—Not later than 18
23 months after the date of enactment of the Fair
24 Chance to Compete for Jobs Act of 2019, the

1 Director shall issue regulations to implement
2 this subsection.

3 “(B) PARALLEL WITH AGENCY REGULA-
4 TIONS.—The regulations issued under subpara-
5 graph (A) shall be the same as substantive reg-
6 ulations promulgated by the Director of the Of-
7 fice of Personnel Management under section
8 2(b)(1) of the Fair Chance to Compete for Jobs
9 Act of 2019 except to the extent that the Direc-
10 tor of the Administrative Office of the United
11 States Courts may determine, for good cause
12 shown and stated together with the regulation,
13 that a modification of such regulations would be
14 more effective for the implementation of the
15 rights and protections under this subsection.

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

20 **SEC. 16. PROHIBITION ON CRIMINAL HISTORY INQUIRIES**
21 **BY CONTRACTORS PRIOR TO CONDITIONAL**
22 **OFFER.**

23 (a) CIVILIAN AGENCY CONTRACTS.—

1 (1) IN GENERAL.—Chapter 47 of title 41,
2 United States Code, is amended by adding at the
3 end the following new section:

4 **“§ 4714. Prohibition on criminal history inquiries by**
5 **contractors prior to conditional offer**

6 “(a) LIMITATION ON CRIMINAL HISTORY INQUIR-
7 IES.—

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

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

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

24 “(2) OTHERWISE REQUIRED BY LAW.—The
25 prohibition under paragraph (1) does not apply with

1 respect to a contract if consideration of criminal his-
2 tory record information prior to a conditional offer
3 with respect to the position is otherwise required by
4 law.

5 “(3) EXCEPTION FOR CERTAIN POSITIONS.—

6 “(A) IN GENERAL.—The prohibition under
7 paragraph (1) does not apply with respect to—

8 “(i) a contract that requires an indi-
9 vidual hired under the contract to access
10 classified information or to have sensitive
11 law enforcement or national security du-
12 ties; or

13 “(ii) a position that the Administrator
14 of General Services identifies under the
15 regulations issued under subparagraph
16 (B).

17 “(B) REGULATIONS.—

18 “(i) ISSUANCE.—Not later than 16
19 months after the date of enactment of the
20 Fair Chance to Compete for Jobs Act of
21 2019, the Administrator of General Serv-
22 ices, in consultation with the Secretary of
23 Defense, shall issue regulations identifying
24 additional positions with respect to which
25 the prohibition under paragraph (1) shall

1 not apply, giving due consideration to posi-
2 tions that involve interaction with minors,
3 access to sensitive information, or man-
4 aging financial transactions.

5 “(ii) COMPLIANCE WITH CIVIL RIGHTS
6 LAWS.—The regulations issued under
7 clause (i) shall—

8 “(I) be consistent with, and in no
9 way supersede, restrict, or limit the
10 application of title VII of the Civil
11 Rights Act of 1964 (42 U.S.C. 2000e
12 et seq.) or other relevant Federal civil
13 rights laws; and

14 “(II) ensure that all hiring activi-
15 ties conducted pursuant to the regula-
16 tions are conducted in a manner con-
17 sistent with relevant Federal civil
18 rights laws.

19 “(b) COMPLAINT PROCEDURES.—The Administrator
20 of General Services shall establish and publish procedures
21 under which an applicant for a position with a Federal
22 contractor may submit to the Administrator a complaint,
23 or any other information, relating to compliance by the
24 contractor with subsection (a)(1)(B).

1 “(c) ACTION FOR VIOLATIONS OF PROHIBITION ON
2 CRIMINAL HISTORY INQUIRIES.—

3 “(1) FIRST VIOLATION.—If the head of an execu-
4 tive agency determines that a contractor has vio-
5 lated subsection (a)(1)(B), such head shall—

6 “(A) notify the contractor;

7 “(B) provide 30 days after such notifica-
8 tion for the contractor to appeal the determina-
9 tion; and

10 “(C) issue a written warning to the con-
11 tractor that includes a description of the viola-
12 tion and the additional remedies that may apply
13 for subsequent violations.

14 “(2) SUBSEQUENT VIOLATION.—If the head of
15 an executive agency determines that a contractor
16 that was subject to paragraph (1) has committed a
17 subsequent violation of subsection (a)(1)(B), such
18 head shall notify the contractor, shall provide 30
19 days after such notification for the contractor to ap-
20 peal the determination, and, in consultation with the
21 relevant Federal agencies, may take actions, depend-
22 ing on the severity of the infraction and the contrac-
23 tor’s history of violations, including—

1 “(A) providing written guidance to the
2 contractor that the contractor’s eligibility for
3 contracts requires compliance with this section;

4 “(B) requiring that the contractor respond
5 within 30 days affirming that the contractor is
6 taking steps to comply with this section; and

7 “(C) suspending payment under the con-
8 tract for which the applicant was being consid-
9 ered until the contractor demonstrates compli-
10 ance with this section.

11 “(d) DEFINITIONS.—In this section:

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

16 “(2) CRIMINAL HISTORY RECORD INFORMA-
17 TION.—The term ‘criminal history record informa-
18 tion’ has the meaning given that term in section
19 9201 of title 5.”.

20 “(2) CLERICAL AMENDMENT.—The table of sec-
21 tions for chapter 47 of title 41, United States Code,
22 is amended by adding at the end the following new
23 item:

“4714. Prohibition on criminal history inquiries by contractors prior to condi-
tional offer.”.

1 (3) EFFECTIVE DATE.—Section 4714 of title
 2 41, United States Code, as added by paragraph (1),
 3 shall apply with respect to contracts awarded pursu-
 4 ant to solicitations issued after the effective date de-
 5 scribed in section 2(b)(2) of this Act.

6 (b) DEFENSE CONTRACTS.—

7 (1) IN GENERAL.—Chapter 137 of title 10,
 8 United States Code, is amended by inserting after
 9 section 2338 the following new section:

10 **“§ 2339. Prohibition on criminal history inquiries by**
 11 **contractors prior to conditional offer**

12 “(a) LIMITATION ON CRIMINAL HISTORY INQUIR-
 13 IES.—

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

16 “(A) may not require that an individual or
 17 sole proprietor who submits a bid for a contract
 18 to disclose criminal history record information
 19 regarding that individual or sole proprietor be-
 20 fore determining the apparent awardee; and

21 “(B) shall require as a condition of receiv-
 22 ing a Federal contract and receiving payments
 23 under such contract that the contractor may
 24 not verbally or through written form request
 25 the disclosure of criminal history record infor-

1 mation regarding an applicant for a position re-
2 lated to work under such contract before such
3 contractor extends a conditional offer to the ap-
4 plicant.

5 “(2) OTHERWISE REQUIRED BY LAW.—The
6 prohibition under paragraph (1) does not apply with
7 respect to a contract if consideration of criminal his-
8 tory record information prior to a conditional offer
9 with respect to the position is otherwise required by
10 law.

11 “(3) EXCEPTION FOR CERTAIN POSITIONS.—

12 “(A) IN GENERAL.—The prohibition under
13 paragraph (1) does not apply with respect to—

14 “(i) a contract that requires an indi-
15 vidual hired under the contract to access
16 classified information or to have sensitive
17 law enforcement or national security du-
18 ties; or

19 “(ii) a position that the Secretary of
20 Defense identifies under the regulations
21 issued under subparagraph (B).

22 “(B) REGULATIONS.—

23 “(i) ISSUANCE.—Not later than 16
24 months after the date of enactment of the
25 Fair Chance to Compete for Jobs Act of

1 2019, the Secretary of Defense, in con-
2 sultation with the Administrator of Gen-
3 eral Services, shall issue regulations identi-
4 fying additional positions with respect to
5 which the prohibition under paragraph (1)
6 shall not apply, giving due consideration to
7 positions that involve interaction with mi-
8 nors, access to sensitive information, or
9 managing financial transactions.

10 “(ii) COMPLIANCE WITH CIVIL RIGHTS
11 LAWS.—The regulations issued under
12 clause (i) shall—

13 “(I) be consistent with, and in no
14 way supersede, restrict, or limit the
15 application of title VII of the Civil
16 Rights Act of 1964 (42 U.S.C. 2000e
17 et seq.) or other relevant Federal civil
18 rights laws; and

19 “(II) ensure that all hiring activi-
20 ties conducted pursuant to the regula-
21 tions are conducted in a manner con-
22 sistent with relevant Federal civil
23 rights laws.

24 “(b) COMPLAINT PROCEDURES.—The Secretary of
25 Defense shall establish and publish procedures under

1 which an applicant for a position with a Department of
2 Defense contractor may submit a complaint, or any other
3 information, relating to compliance by the contractor with
4 subsection (a)(1)(B).

5 “(c) ACTION FOR VIOLATIONS OF PROHIBITION ON
6 CRIMINAL HISTORY INQUIRIES.—

7 “(1) FIRST VIOLATION.—If the Secretary of
8 Defense determines that a contractor has violated
9 subsection (a)(1)(B), the Secretary shall—

10 “(A) notify the contractor;

11 “(B) provide 30 days after such notifica-
12 tion for the contractor to appeal the determina-
13 tion; and

14 “(C) issue a written warning to the con-
15 tractor that includes a description of the viola-
16 tion and the additional remedies that may apply
17 for subsequent violations.

18 “(2) SUBSEQUENT VIOLATIONS.—If the Sec-
19 retary of Defense determines that a contractor that
20 was subject to paragraph (1) has committed a sub-
21 sequent violation of subsection (a)(1)(B), the Sec-
22 retary shall notify the contractor, shall provide 30
23 days after such notification for the contractor to ap-
24 peal the determination, and, in consultation with the
25 relevant Federal agencies, may take actions, depend-

1 ing on the severity of the infraction and the contrac-
2 tor's history of violations, including—

3 “(A) providing written guidance to the
4 contractor that the contractor's eligibility for
5 contracts requires compliance with this section;

6 “(B) requiring that the contractor respond
7 within 30 days affirming that the contractor is
8 taking steps to comply with this section; and

9 “(C) suspending payment under the con-
10 tract for which the applicant was being consid-
11 ered until the contractor demonstrates compli-
12 ance with this section.

13 “(d) DEFINITIONS.—In this section:

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

18 “(2) CRIMINAL HISTORY RECORD INFORMA-
19 TION.—The term ‘criminal history record informa-
20 tion’ has the meaning given that term in section
21 9201 of title 5.”.

22 (2) EFFECTIVE DATE.—Section 2339(a) of title
23 10, United States Code, as added by paragraph (1),
24 shall apply with respect to contracts awarded pursu-

1 ant to solicitations issued after the effective date de-
2 scribed in section 2(b)(2) of this Act.

3 (3) CLERICAL AMENDMENT.—The table of sec-
4 tions for chapter 137 of title 10, United States
5 Code, is amended by inserting after the item relating
6 to section 2338 the following new item:

“2339. Prohibition on criminal history inquiries by contractors prior to condi-
tional offer.”.

7 (c) REVISIONS TO FEDERAL ACQUISITION REGULA-
8 TION.—

9 (1) IN GENERAL.—Not later than 18 months
10 after the date of enactment of this Act, the Federal
11 Acquisition Regulatory Council shall revise the Fed-
12 eral Acquisition Regulation to implement section
13 4714 of title 41, United States Code, and section
14 2339 of title 10, United States Code, as added by
15 this section.

16 (2) CONSISTENCY WITH OFFICE OF PERSONNEL
17 MANAGEMENT REGULATIONS.—The Federal Acquisi-
18 tion Regulatory Council shall revise the Federal Ac-
19 quisition Regulation under paragraph (1) to be con-
20 sistent with the regulations issued by the Director of
21 the Office of Personnel Management under section
22 2(b)(1) to the maximum extent practicable. The
23 Council shall include together with such revision an
24 explanation of any substantive modification of the

1 Office of Personnel Management regulations, includ-
2 ing an explanation of how such modification will
3 more effectively implement the rights and protec-
4 tions under this section.

5 **SEC. 17. REPORT ON EMPLOYMENT OF INDIVIDUALS FOR-**
6 **MERLY INCARCERATED IN FEDERAL PRIS-**
7 **ONS.**

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

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

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

18 (b) STUDY AND REPORT REQUIRED.—The Director
19 of the Bureau of Justice Statistics, in coordination with
20 the Director of the Bureau of the Census, shall—

21 (1) not later than 180 days after the date of
22 enactment of this Act, design and initiate a study on
23 the employment of covered individuals after their re-
24 lease from Federal prison, including by collecting—

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

3 (B) data on employment and earnings of
4 covered individuals who are denied employment,
5 including the reasons for the denials; and

6 (2) not later than 2 years after the date of en-
7 actment of this Act, and every 5 years thereafter,
8 submit a report that does not include any personally
9 identifiable information on the study conducted
10 under paragraph (1) to—

11 (A) the Committee on Homeland Security
12 and Governmental Affairs of the Senate;

13 (B) the Committee on Health, Education,
14 Labor, and Pensions of the Senate;

15 (C) the Committee on Oversight and Re-
16 form of the House of Representatives; and

17 (D) the Committee on Education and
18 Labor of the House of Representatives.

19 **SEC. 18. DETERMINATION OF BUDGETARY EFFECTS.**

20 The budgetary effects of this Act, for the purpose of
21 complying with the Statutory Pay-As-You-Go Act of 2010,
22 shall be determined by reference to the latest statement
23 titled “Budgetary Effects of PAYGO Legislation” for this
24 Act, submitted for printing in the Congressional Record
25 by the Chairman of the House Budget Committee, pro-

1 vided that such statement has been submitted prior to the
2 vote on passage.

3 **SEC. 19. DEFINITIONS.**

4 In this Act:

5 (1) CORRECTIONAL INSTITUTION OR FACIL-
6 ITY.—The term “correctional institution or facility”
7 means any prison, penitentiary, jail, or other institu-
8 tion or facility for the confinement of individuals
9 convicted of criminal offenses, whether publicly or
10 privately operated, except that such term does not
11 include any residential community treatment center
12 (or similar public or private facility).

13 (2) CRIMINAL JUSTICE SENTENCE.—The term
14 “criminal justice sentence” means any requirement
15 imposed pursuant to a sentence, including incarceration,
16 supervised release, parole, or probation.

17 (3) ELECTION.—The term “election” means—

18 (A) a general, special, primary, or runoff
19 election;

20 (B) a convention or caucus of a political
21 party held to nominate a candidate;

22 (C) a primary election held for the selec-
23 tion of delegates to a national nominating con-
24 vention of a political party; or

1 (D) a primary election held for the expres-
2 sion of a preference for the nomination of per-
3 sons for election to the office of President.

4 (4) ELIGIBLE OFFENSE.—The term “eligible of-
5 fense” means an offense for a controlled substances
6 with respect to an amount that is lower than the
7 benchmark determined by the Commission on Sub-
8 stance Use, Health, and Safety established under
9 section 6 of this Act.

10 (5) FEDERAL OFFICE.—The term “Federal of-
11 fice” means the office of President or Vice President
12 of the United States, or of Senator or Representa-
13 tive in, or Delegate or Resident Commissioner to,
14 the Congress of the United States.

15 (6) INDIGENOUS COMMUNITIES.—The term
16 “Indigenous communities” includes each of the Fed-
17 erally recognized Indian tribes.

18 (7) PROBATION.—The term “probation” means
19 probation, imposed by a Federal, State, or local
20 court, with or without a condition on the individual
21 involved concerning—

22 (A) the individual’s freedom of movement;

23 (B) the payment of damages by the indi-
24 vidual;

1 (C) periodic reporting by the individual to
2 an officer of the court; or

3 (D) supervision of the individual by an of-
4 ficer of the court.

○