

114TH CONGRESS
1ST SESSION

S. 2054

To improve Federal sentencing and corrections practices, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2015

Mr. SANDERS introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To improve Federal sentencing and corrections practices, 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 “Justice is Not For
5 Sale Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) the term “core correctional services” means
9 the housing, safeguarding, protecting, and dis-

1 ciplining of individuals charged with or convicted of
 2 an offense;

3 (2) the term “local government” means a city,
 4 county, township, town, borough, parish, village, or
 5 other general purpose political subdivision of a
 6 State; and

7 (3) the term “State” means a State of the
 8 United States, the District of Columbia, the Com-
 9 monwealth of Puerto Rico, or another common-
 10 wealth, territory, or possession of the United States.

11 **SEC. 3. ELIMINATION OF FEDERAL CONTRACTS FOR PRI-**
 12 **VATELY RUN PRISONS WITHIN 3 YEARS.**

13 (a) DEFINITION.—In this section, the term “facility
 14 housing adult prisoners or detainees in the custody of the
 15 Federal Government” does not include a community cor-
 16 rectional facility or the residence of an individual on home
 17 confinement, as described in section 3624(c) of title 18,
 18 United States Code.

19 (b) OPERATIONAL CONTROL.—Except as provided in
 20 subsection (c), not later than 2 years after the date of
 21 enactment of this Act—

22 (1) each facility housing adult prisoners or de-
 23 tainees in the custody of the Federal Government
 24 shall be under the direct, operational control of the
 25 Federal Government; and

1 (2) core correctional services at each such facil-
 2 ity shall be performed by employees of the Federal
 3 Government.

4 (c) WAIVER AUTHORIZED.—If the Attorney General
 5 determines that the Federal Government is unable to com-
 6 ply with subsection (b) by the date that is 2 years after
 7 the date of enactment of this Act, the Attorney General
 8 may waive the application of subsection (b) for not more
 9 than 1 year.

10 **SEC. 4. ELIMINATION OF STATE AND LOCAL CONTRACTS**

11 **FOR PRIVATELY RUN PRISONS WITHIN 3**
 12 **YEARS.**

13 (a) DEFINITION.—In this section, the term “facility
 14 housing adult prisoners or detainees in the custody of a
 15 State or local government” does not include a community
 16 treatment center, halfway house, restitution center, men-
 17 tal health facility, alcohol or drug rehabilitation center, or
 18 other community facility that is not within the confines
 19 of a jail or prison.

20 (b) OPERATIONAL CONTROL.—Except as provided in
 21 subsection (c), not later than 2 years after the date of
 22 enactment of this Act—

23 (1) each facility housing adult prisoners or de-
 24 tainees in the custody of a State or local government

1 shall be under the direct, operational control of a
2 State or local government; and

3 (2) core correctional services at each such facil-
4 ity shall be performed by employees of a State or
5 local government.

6 (c) WAIVER AUTHORIZED.—If the Attorney General
7 determines that a State or local government is unable to
8 comply with subsection (b) by the date that is 2 years
9 after the date of enactment of this Act, the Attorney Gen-
10 eral may waive the application of subsection (b) as to that
11 State or local government for not more than 1 year.

12 **SEC. 5. REINSTATEMENT OF PAROLE.**

13 (a) IN GENERAL.—Chapter 229 of title 18, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

“SUBCHAPTER D—PAROLE

“Sec.

“3631. Definitions.

“3632. Powers and duties of the Commission.

“3633. Powers and duties of the Chairperson.

“3634. Time of eligibility for release on parole.

“3635. Parole determination criteria.

“3636. Information considered.

“3637. Parole determination proceeding; time.

“3638. Conditions of parole.

“3639. Jurisdiction of Commission.

“3640. Early termination of parole.

“3641. Aliens.

“3642. Summons to appear or warrant for retaking of parolee.

“3643. Revocation of parole.

“3644. Reconsideration and appeal.

“3645. Young adult offenders.

“3646. Applicability of Administrative Procedure Act.

“Subchapter D—Parole

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“§ 3631. Definitions

“In this subchapter—

“(1) the term ‘Chairperson’ means the Chairperson of the Commission;

“(2) the term ‘Commission’ means the United States Parole Commission;

“(3) the term ‘Commissioner’ means any member of the Commission;

“(4) the term ‘Director’ means the Director of the Bureau of Prisons;

“(5) the term ‘eligible prisoner’ means any Federal prisoner who is eligible for parole under this title or any other law, including any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole;

“(6) the term ‘parolee’ means any eligible prisoner who has been released on parole or deemed as if released on parole under section 3626(b)(5) or section 3634(a)(2); and

“(7) the term ‘rules and regulations’ means rules and regulations promulgated by the Commission under section 3632 and section 553 of title 5.

1 **“§ 3632. Powers and duties of the Commission**

2 “(a) IN GENERAL.—The Commission shall meet at
3 least quarterly, and by majority vote shall—

4 “(1) promulgate rules and regulations estab-
5 lishing guidelines for the powers enumerated in sub-
6 section (b) and such other rules and regulations as
7 are necessary to carry out a national parole policy
8 and the purposes of this subchapter;

9 “(2) create such regions as are necessary to
10 carry out this subchapter, but in no event less than
11 5; and

12 “(3) ratify, revise, or deny any request for reg-
13 ular, supplemental, or deficiency appropriations, be-
14 fore the submission of the requests to the Office of
15 Management and Budget by the Chairperson, which
16 requests shall be separate from those of any other
17 agency in the Department of Justice.

18 “(b) POWERS RELATING TO PAROLE.—The Commis-
19 sion, by majority vote, and in accordance with the proce-
20 dures set out in this subchapter, shall have the power to—

21 “(1) grant or deny an application or rec-
22 ommendation to parole any eligible prisoner;

23 “(2) impose reasonable conditions on an order
24 granting parole;

25 “(3) modify or revoke an order paroling any eli-
26 gible prisoner; and

1 “(4) request probation officers and other indi-
 2 viduals, organizations, and public or private agencies
 3 to perform such duties with respect to any parolee
 4 as the Commission determines necessary—

5 “(A) for maintaining proper supervision of
 6 and assistance to such parolees; and

7 “(B) so as to assure that no probation offi-
 8 cers, individuals, organizations, or agencies
 9 shall bear excessive caseloads.

10 “(c) DELEGATION.—The Commission, by majority
 11 vote, and in accordance with rules and regulations—

12 “(1) may delegate to 1 or more Commissioners
 13 powers enumerated in subsection (b);

14 “(2) may delegate to hearing examiners any
 15 powers necessary to conduct hearings and pro-
 16 ceedings, take sworn testimony, obtain and make a
 17 record of pertinent information, make findings of
 18 probable cause and issue subpoenas for witnesses or
 19 evidence in parole revocation proceedings, and rec-
 20 ommend disposition of any matters enumerated in
 21 subsection (b), except that any such findings or rec-
 22 ommendations shall be based upon the concurrence
 23 of not less than 2 hearing examiners;

24 “(3) may delegate authority to conduct hear-
 25 ings held under section 3643 to any officer or em-

1 ployee of the executive or judicial branch of Federal
2 or State government;

3 “(4) may review, or may delegate to the Na-
4 tional Appeals Board the power to review, any deci-
5 sion made under paragraph (1), which shall be re-
6 affirmed, modified, or reversed not later than 30
7 days after the date the decision is rendered; and

8 “(5) shall provide written notice to the indi-
9 vidual to whom a decision described in paragraph
10 (4) applies of the Commission’s actions with respect
11 thereto and the reasons for such actions.

12 “(d) POLICYMAKING.—Except as otherwise provided
13 by law, any action taken by the Commission under sub-
14 section (a) shall be taken by a majority vote of all individ-
15 uals currently holding office as members of the Commis-
16 sion which shall maintain and make available for public
17 inspection a record of the final vote of each member on
18 statements of policy and interpretations adopted by it. In
19 so acting, each Commissioner shall have equal responsi-
20 bility and authority, shall have full access to all informa-
21 tion relating to the performance of such duties and respon-
22 sibilities, and shall have 1 vote.

23 **“§ 3633. Powers and duties of the Chairperson**

24 “(a) IN GENERAL.—The Chairperson shall—

1 “(1) convene and preside at meetings of the
2 Commission under section 3632 and such additional
3 meetings of the Commission as the Chairperson may
4 call or as may be requested in writing by at least 3
5 Commissioners;

6 “(2) appoint, fix the compensation of, assign,
7 and supervise all personnel employed by the Com-
8 mission except that—

9 “(A) the appointment of any hearing ex-
10 aminer shall be subject to approval of the Com-
11 mission within the first year of such hearing ex-
12 aminer’s employment; and

13 “(B) regional Commissioners shall appoint
14 and supervise such personnel employed regu-
15 larly and full time in their respective regions as
16 are compensated at a rate up to and including
17 level GS–9 of the General Schedule;

18 “(3) assign duties among officers and employ-
19 ees of the Commission, including Commissioners, so
20 as to balance the workload and provide for orderly
21 administration;

22 “(4) direct the preparation of requests for ap-
23 propriations for the Commission, and the use of
24 funds made available to the Commission;

1 “(5) designate 3 Commissioners to serve on the
2 National Appeals Board, 1 whom shall be designated
3 to serve as Vice Chairperson of the Commission
4 (who shall act as Chairperson of the Commission in
5 the absence or disability of the Chairperson or in the
6 event of a vacancy in the position of Chairperson);

7 “(6) designate, for each region established
8 under section 3632(a)(2), 1 Commissioner to serve
9 as regional Commissioner in each such region, ex-
10 cept that—

11 “(A) in each such designation the Chair-
12 person shall consider years of service, personal
13 preference, and fitness; and

14 “(B) no such designation shall take effect
15 unless concurred in by the President;

16 “(7) serve as spokesperson for the Commission
17 and report annually to each House of Congress on
18 the activities of the Commission; and

19 “(8) exercise such other powers and duties and
20 perform such other functions as may be necessary to
21 carry out the purposes of this subchapter or as may
22 be provided under any other provision of law.

23 “(b) OTHER AUTHORITIES.—The Chairperson shall
24 have the power to—

1 “(1) without regard to subsections (a) and (b)
2 of section 3324 of title 31, enter into and perform
3 such contracts, leases, cooperative agreements, and
4 other transactions as may be necessary in the con-
5 duct of the functions of the Commission with any
6 public agency or with any person, firm, association,
7 corporation, educational institution, or nonprofit or-
8 ganization;

9 “(2) accept voluntary and uncompensated serv-
10 ices, notwithstanding section 1342 of title 31;

11 “(3) procure for the Commission temporary and
12 intermittent services to the same extent as is author-
13 ized by section 3109(b) of title 5;

14 “(4) collect systematically the data obtained
15 from studies, research, and the empirical experience
16 of public and private agencies concerning the parole
17 process;

18 “(5) carry out programs of research concerning
19 the parole process to develop classification systems
20 which describe types of offenders, and to develop
21 theories and practices which can be applied to the
22 different types of offenders;

23 “(6) publish data concerning the parole process;

24 “(7) devise and conduct, in various geographical
25 locations, seminars, workshops, and training pro-

1 grams providing continuing studies and instruction
2 for personnel of Federal, State, and local agencies
3 and private and public organizations working with
4 parolees and connected with the parole process; and

5 “(8) use the services, equipment, personnel, in-
6 formation, facilities, and instrumentalities with or
7 without reimbursement therefor of other Federal,
8 State, local, and private agencies with their consent.

9 “(c) CONSISTENCY WITH NATIONAL PAROLE POLI-
10 CIES.—In carrying out the functions under this section,
11 the Chairperson shall be governed by the national parole
12 policies promulgated by the Commission.

13 **“§ 3634. Time of eligibility for release on parole**

14 “(a) ELIGIBILITY.—

15 “(1) IN GENERAL.—Except to the extent other-
16 wise provided by law—

17 “(A) a prisoner confined and serving a
18 definite term or terms of imprisonment of more
19 than 1 year shall be eligible for release on pa-
20 role after serving 33.3 percent of such term or
21 terms; and

22 “(B) a prisoner confined and serving a life
23 sentence shall be eligible for release on parole
24 after serving 10 years.

1 “(2) TERMS OF LESS THAN 1 YEAR.—Any pris-
2 oner sentenced to imprisonment for a term or terms
3 of not less than 6 months, and not more than 1
4 year, shall be released at the expiration of such sen-
5 tence, unless the court which imposed sentence shall,
6 at the time of sentencing, provide for the prisoner’s
7 release after service of 33.3 percent of such term or
8 terms, which shall be deemed to be as if released on
9 parole. This paragraph shall not prevent delivery of
10 any person released on parole to the authorities of
11 any State otherwise entitled to custody of the per-
12 son.

13 “(b) DETERMINATIONS BY COURT.—Upon entering
14 a judgment of conviction, the court having jurisdiction to
15 impose sentence, when in its opinion the ends of justice
16 and best interest of the public require that the defendant
17 be sentenced to imprisonment for a term exceeding 1 year,
18 may—

19 “(1) designate in the sentence of imprisonment
20 imposed a minimum term at the expiration of which
21 the defendant shall become eligible for parole, which
22 term may not be more than 33.3 percent of the max-
23 imum sentence imposed by the court; or

24 “(2) fix the maximum sentence of imprisonment
25 to be served by the defendant, in which event the

1 court may specify that the defendant may be re-
2 leased on parole at such time as the Commission
3 may determine.

4 “(c) ADDITIONAL INFORMATION.—

5 “(1) IN GENERAL.—If the court desires more
6 detailed information as a basis for determining the
7 sentence to be imposed, the court may commit the
8 defendant to the custody of the Attorney General,
9 which commitment shall be deemed to be for the
10 maximum sentence of imprisonment prescribed by
11 law, for a study as described in subsection (d).

12 “(2) REPORT AND RECOMMENDATIONS OF DI-
13 RECTOR.—Not later than 3 months after a defend-
14 ant is committed under paragraph (1), unless the
15 court grants additional time, not to exceed 3
16 months, for further study, the results of the study
17 described in subsection (d), together with any rec-
18 ommendations which the Director believes would be
19 helpful in determining the disposition of the case,
20 shall be furnished to the court.

21 “(3) SENTENCING AFTER ADDITIONAL INFOR-
22 MATION.—After receiving a report and recommenda-
23 tions under paragraph (2), the court may in its dis-
24 cretion—

1 “(A) place the offender on probation in ac-
2 cordance with subchapter A; or

3 “(B)(i)(I) affirm the sentence of imprison-
4 ment originally deemed to be imposed; or

5 “(II) reduce the sentence of imprisonment;
6 and

7 “(ii) commit the offender under any appli-
8 cable provision of law.

9 “(4) RUNNING OF TERM.—The term of a sen-
10 tence imposed under paragraph (3) shall run from
11 the date of original commitment under this sub-
12 section.

13 “(d) STUDY UPON COMMITMENT.—

14 “(1) IN GENERAL.—Upon commitment of a
15 prisoner sentenced to imprisonment under sub-
16 section (a) or (b), the Director, under such regula-
17 tions as the Attorney General may prescribe, shall
18 cause a complete study to be made of the prisoner
19 and shall furnish to the Commission a summary re-
20 port together with any recommendations which in
21 the opinion of the Director would be helpful in deter-
22 mining the suitability of the prisoner for parole.

23 “(2) CONTENTS.—A report under paragraph
24 (1) may include—

1 “(A) data regarding the prisoner’s previous
2 delinquency or criminal experience;

3 “(B) pertinent circumstances of the social
4 background, capabilities, and mental and phys-
5 ical health of the prisoner; and

6 “(C) consideration of such other factors as
7 may be considered pertinent.

8 “(3) STUDY BY COMMISSION.—The Commission
9 may make such other investigation relating to a
10 prisoner as it may determine necessary.

11 “(e) PROVISION OF INFORMATION.—Upon request of
12 the Commission, it shall be the duty of the various proba-
13 tion officers and agencies of the Federal Government to
14 furnish the Commission—

15 “(1) information available to such officer or
16 agency concerning any eligible prisoner or parolee;
17 and

18 “(2) whenever not incompatible with the public
19 interest, their views and recommendation with re-
20 spect to any matter within the jurisdiction of the
21 Commission.

22 “(f) REDUCTION OF MINIMUM TERM.—At any time,
23 upon motion of the Director, the court may reduce any
24 minimum term before a prisoner may be released on pa-
25 role to the time the prisoner has served. The court shall

1 have jurisdiction to act upon the application at any time
2 and no hearing shall be required.

3 “(g) RULE OF CONSTRUCTION.—Nothing in this sub-
4 chapter shall be construed to provide that any prisoner
5 shall be eligible for release on parole if such prisoner is
6 ineligible for such release under any other provision of law.

7 **“§ 3635. Parole determination criteria**

8 “(a) IN GENERAL.—Subject to subsections (b) and
9 (c), and in accordance with guidelines promulgated by the
10 Commission under section 3632, an eligible prisoner shall
11 be released on parole if—

12 “(1) the eligible prisoner has substantially ob-
13 served the rules of the institution or institutions to
14 which the eligible prisoner has been confined; and

15 “(2) the Commission, upon consideration of the
16 nature and circumstances of the offense and the his-
17 tory and characteristics of the eligible prisoner, de-
18 termines that release would not—

19 “(A) depreciate the seriousness of the of-
20 fense or promote disrespect for the law; or

21 “(B) jeopardize the public welfare.

22 “(b) EXCEPTION.—Notwithstanding the guidelines
23 promulgated by the Commission under section 3632, the
24 Commission may grant or deny release on parole if it de-
25 termines there is good cause for so doing.

1 “(c) NOTICE.—The Commission shall furnish an eli-
2 gible prisoner with a written notice of its determination
3 (including any determination described in subsection (b))
4 not later than 21 days, excluding holidays, after the date
5 of the parole determination proceeding. If parole is denied,
6 such notice shall state with particularity the reasons for
7 such denial.

8 “(d) CERTAIN PRISONERS.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 any prisoner serving a term or terms of imprison-
11 ment of 5 years or longer, who is not earlier released
12 under this section or any other applicable provision
13 of law, shall be released on parole—

14 “(A) on the date on which the prisoner has
15 served 66.6 percent of each consecutive term or
16 terms; or

17 “(B) for a prisoner serving consecutive
18 term or terms of imprisonment of more than 45
19 years (including any life term), the earlier of—

20 “(i) the date described in subpara-
21 graph (A); or

22 “(ii) the date on which the prisoner
23 has served 30 years.

1 “(2) EXCEPTION.—The Commission shall not
2 release a prisoner under paragraph (1) if it deter-
3 mines that—

4 “(A) the prisoner has seriously or fre-
5 quently violated institution rules and regula-
6 tions; or

7 “(B) there is a reasonable probability that
8 the prisoner will commit any Federal, State, or
9 local crime.

10 **“§ 3636. Information considered**

11 “In making a determination under this subchapter
12 relating to release on parole of an eligible prisoner, the
13 Commission shall consider, if available and relevant—

14 “(1) reports and recommendations which the
15 staff of the facility in which such eligible prisoner is
16 confined may make;

17 “(2) official reports of the eligible prisoner’s
18 prior criminal record, including a report or record of
19 earlier probation and parole experiences;

20 “(3) presentence investigation reports;

21 “(4) recommendations regarding the eligible
22 prisoner’s parole made at the time of sentencing by
23 the sentencing judge;

24 “(5) reports of physical, mental, or psychiatric
25 examination of the eligible prisoner; and

1 “(6) such additional relevant information con-
2 cerning the eligible prisoner (including information
3 submitted by the eligible prisoner) as may be reason-
4 ably available.

5 **“§ 3637. Parole determination proceeding; time**

6 “(a) PROCEEDINGS.—

7 “(1) IN GENERAL.—In making a determination
8 under this subchapter (relating to parole), the Com-
9 mission shall conduct a parole determination pro-
10 ceeding unless it determines on the basis of the eligi-
11 ble prisoner’s record that the eligible prisoner will be
12 released on parole.

13 “(2) TIMING.—

14 “(A) IN GENERAL.—Whenever feasible, the
15 initial parole determination proceeding for a
16 prisoner eligible for parole under subsection
17 (a)(1) or (b)(1) of section 3634 shall be held
18 not later than 30 days before the date of such
19 eligibility for parole.

20 “(B) OTHER PROCEEDINGS.—Whenever
21 feasible, the initial parole determination pro-
22 ceeding for a prisoner eligible for parole under
23 section 3634(b)(2) or who was released on pa-
24 role, and whose parole has been revoked, shall
25 be held not later than 120 days following such

1 prisoner's imprisonment or reimprisonment in a
2 Federal institution, as the case may be.

3 “(3) WAIVER.—An eligible prisoner may know-
4 ingly and intelligently waive any parole determina-
5 tion proceeding.

6 “(b) NOTICE.—

7 “(1) IN GENERAL.—Not later than 30 days be-
8 fore a parole determination proceeding relating to an
9 eligible prisoner, the eligible prisoner shall be pro-
10 vided with—

11 “(A) written notice of the time and place
12 of the proceeding; and

13 “(B) reasonable access to any reports or
14 other documents to be used by the Commission
15 in making its determination.

16 “(2) WAIVER.—An eligible prisoner may waive
17 notice of a parole determination proceeding, except
18 that if notice is not waived, the proceeding shall be
19 held during the next regularly scheduled proceedings
20 by the Commission at the institution in which the el-
21 igible prisoner is confined.

22 “(c) WITHHOLDING OF CERTAIN MATERIALS.—

23 “(1) IN GENERAL.—Subsection (b)(1)(B) shall
24 not apply to—

1 “(A) diagnostic opinions which, if made
2 known to the eligible prisoner, could lead to a
3 serious disruption of the institutional program;

4 “(B) any document which reveals sources
5 of information obtained upon a promise of con-
6 fidentiality; or

7 “(C) any other information which, if dis-
8 closed, might result in harm, physical or other-
9 wise, to any person.

10 “(2) SUMMARIES.—If access to a report or
11 other document is not provided by the Commission,
12 the Bureau of Prisons, or any other agency under
13 paragraph (1), the Commission, the Bureau, or such
14 other agency, respectively, shall provide to the eligi-
15 ble prisoner a summary of the basic contents of the
16 material withheld, bearing in mind the need for con-
17 fidentiality and the impact on the eligible prisoner.

18 “(d) CONSULTATION AND REPRESENTATION.—

19 “(1) IN GENERAL.—During the period before a
20 parole determination proceeding described in sub-
21 section (b)(1), an eligible prisoner may consult, as
22 provided by the Director, with a representative as
23 referred to in paragraph (2), and by mail or other-
24 wise with any person concerning such proceeding.

1 “(2) REPRESENTATION AT PROCEEDING.—An
2 eligible prisoner shall, if the eligible prisoner choos-
3 es, be represented at the parole determination pro-
4 ceeding by a representative who qualifies under rules
5 promulgated by the Commission. Such rules shall
6 not exclude attorneys as a class.

7 “(e) TESTIMONY BY ELIGIBLE PRISONER.—An eligi-
8 ble prisoner shall be allowed to appear and testify on his
9 or her own behalf at the parole determination proceeding.

10 “(f) RECORDS.—A full and complete record of every
11 parole determination proceeding shall be retained by the
12 Commission. Upon request, the Commission shall make
13 available to any eligible prisoner such record as the Com-
14 mission may retain of the parole determination pro-
15 ceeding.

16 “(g) CONFERENCE IF DENIED.—If parole is denied,
17 and if feasible—

18 “(1) a personal conference to explain the rea-
19 sons for the denial shall be held between the eligible
20 prisoner and the Commissioners or examiners con-
21 ducting the proceeding at the conclusion of the pro-
22 ceeding; and

23 “(2) the conference shall include advice to the
24 eligible prisoner as to what steps may be taken to

1 enhance the chance of being released at a subse-
2 quent proceeding.

3 “(h) SUBSEQUENT PROCEEDINGS IF DENIED.—In
4 any case in which release on parole is not granted, subse-
5 quent parole determination proceedings shall be held not
6 less frequently than every—

7 “(1) 18 months in the case of an eligible pris-
8 oner serving a term or terms of imprisonment of
9 more than 1 year and less than 7 years; and

10 “(2) 24 months in the case of an eligible pris-
11 oner serving a term or terms of imprisonment of not
12 less than 7 years.

13 **“§ 3638. Conditions of parole**

14 “(a) CONDITIONS.—

15 “(1) NO OTHER CRIMES.—In every case, the
16 Commission shall impose as a condition of parole
17 that the parolee not commit another Federal, State,
18 or local crime.

19 “(2) OTHER CONDITIONS.—The Commission—

20 “(A) may impose or modify other condi-
21 tions of parole to the extent that such condi-
22 tions are reasonably related to—

23 “(i) the nature and circumstances of
24 the offense; and

1 “(ii) the history and characteristics of
2 the parolee; and

3 “(B) may provide for such supervision and
4 other limitations as are reasonable to protect
5 the public welfare.

6 “(b) SCOPE OF CONDITIONS.—

7 “(1) IN GENERAL.—The conditions of parole
8 should be sufficiently specific to serve as a guide to
9 supervision and conduct.

10 “(2) CERTIFICATE.—Upon release on parole, a
11 parolee shall be given a certificate setting forth the
12 conditions of parole. An effort shall be made to
13 make certain that the parolee understands the condi-
14 tions of parole.

15 “(c) TREATMENT.—

16 “(1) IN GENERAL.—Release on parole or re-
17 lease as if on parole may as a condition of such re-
18 lease require—

19 “(A) a parolee to reside in or participate in
20 the program of a residential community treat-
21 ment center, or both, for all or part of the pe-
22 riod of such parole; and

23 “(B) a parolee who is an addict (as defined
24 under section 102 of the Controlled Substances
25 Act (21 U.S.C. 802)) or a drug dependent per-

1 son (as defined in section 2 of the Public
2 Health Service Act (42 U.S.C. 201)) to undergo
3 available medical, psychiatric, or psychological
4 treatment for drug or alcohol dependency for all
5 or part of the period of parole.

6 “(2) COSTS.—A parolee residing in a residen-
7 tial community treatment center pursuant to para-
8 graph (1) may be required to pay such costs incident
9 to residence as the Commission determines appro-
10 priate.

11 “(d) MODIFICATION OF CONDITIONS.—

12 “(1) IN GENERAL.—The Commission may mod-
13 ify conditions of parole under this section on its own
14 motion, or on the motion of a United States proba-
15 tion officer supervising a parolee.

16 “(2) NOTICE REQUIRED.—A parolee shall re-
17 ceive notice of a proposed modification of conditions
18 of parol and a period of not less than 10 days after
19 receipt of such notice to express the views of the pa-
20 rolee on the proposed modification.

21 “(3) PERIOD FOR DETERMINATION.—Not later
22 than 21 days after the end of the 10-day period de-
23 scribed in paragraph (2), the Commission shall act
24 upon a motion or application to modify conditions of
25 parole.

1 “(4) PETITION BY PAROLEE.—A parolee may
2 petition the Commission for a modification of condi-
3 tions under this section.

4 “(5) RELATION TO REVOCATION PRO-
5 CEEDINGS.—This subsection shall not apply to modi-
6 fications of parole conditions under a revocation pro-
7 ceeding under section 3643.

8 **“§ 3639. Jurisdiction of Commission**

9 “(a) ATTORNEY GENERAL JURISDICTION.—A pa-
10 rolee shall remain in the legal custody and under the con-
11 trol of the Attorney General, until the expiration of the
12 maximum term or terms of imprisonment to which such
13 parolee was sentenced.

14 “(b) JURISDICTION OF COMMISSION GENERALLY.—
15 Except as otherwise provided in this section, the jurisdic-
16 tion of the Commission over the parolee shall terminate
17 not later than the date of the expiration of the maximum
18 term or terms for which the parolee was sentenced, except
19 that—

20 “(1) such jurisdiction shall terminate at an ear-
21 lier date to the extent provided under section
22 3624(b)(5) or section 3640; and

23 “(2) in the case of a parolee who has been con-
24 victed of a Federal, State, or local crime committed
25 subsequent to release on parole that is punishable by

1 a term of imprisonment, detention, or incarceration
2 in any penal facility, the Commission shall deter-
3 mine, in accordance with subsection (b) or (c) of sec-
4 tion 3643, whether all or any part of the unexpired
5 term being served at the time of parole shall run
6 concurrently or consecutively with the sentence im-
7 posed for the new offense, but in no case shall such
8 service together with such time as the parolee has
9 previously served in connection with the offense for
10 which the parolee was paroled, be longer than the
11 maximum term for which the parolee was sentenced
12 in connection with such offense.

13 “(c) INTENTIONAL FAILURE OR REFUSAL.—If a pa-
14 rolee intentionally refuses or fails to respond to any rea-
15 sonable request, order, summons, or warrant of the Com-
16 mission or any member or agent thereof, the jurisdiction
17 of the Commission may be extended for the period during
18 which the parolee so refuses or fails to respond.

19 “(d) OTHER SENTENCES.—The parole of any parolee
20 shall run concurrently with the period of parole or proba-
21 tion under any other Federal, State, or local sentence.
22 Upon the termination of the jurisdiction of the Commis-
23 sion over any parolee, the Commission shall issue a certifi-
24 cate of discharge to the parolee and to such other agencies
25 as it may determine.

1 **“§ 3640. Early termination of parole**

2 “(a) IN GENERAL.—Upon its own motion or upon re-
3 quest of the parolee, the Commission may terminate su-
4 pervision over a parolee prior to the termination of juris-
5 diction under section 3639.

6 “(b) STATUS REVIEWS.—

7 “(1) IN GENERAL.—Not later than 2 years
8 after a parolee is released on parole, and every year
9 thereafter, the Commission shall review the status of
10 the parolee to determine the need for continued su-
11 pervision.

12 “(2) EXCLUSION OF CERTAIN PERIODS.—In
13 calculating the 2-year period described in paragraph
14 (1), there shall not be included any period of release
15 on parole prior to the most recent such release, nor
16 any period served in confinement on any other sen-
17 tence.

18 “(c) TERMINATION AFTER 5 YEARS.—

19 “(1) IN GENERAL.—Five years after a parolee
20 is released on parole, the Commission shall termi-
21 nate supervision over the parolee unless the Commis-
22 sion determines, after a hearing conducted in ac-
23 cordance with the procedures prescribed in section
24 3643(a)(2), that such supervision should not be ter-
25 minated because there is a likelihood that the pa-

1 rolee will engaged in conduct violating any criminal
2 law.

3 “(2) CONTINUATION OF PAROLE.—If super-
4 vision is not terminated under paragraph (1), the
5 parolee may request a hearing annually thereafter,
6 and a hearing, with procedures in accordance with
7 paragraph (1), shall be conducted with respect to
8 such termination of supervision not less frequently
9 than every 2 years.

10 “(3) EXCLUSION OF CERTAIN PERIODS.—In
11 calculating the 5-year period described in paragraph
12 (1), there shall not be included any period of release
13 on parole prior to the most recent such release, nor
14 any period served in confinement on any other sen-
15 tence.

16 **“§ 3641. Aliens**

17 “(a) ELIGIBILITY OF PAROLE FOR ALIENS.—Not-
18 withstanding any other provision of law, aliens shall be
19 eligible for parole under this title.

20 “(b) ALIENS WITH FINAL ORDERS OF REMOVAL.—
21 When an alien prisoner subject to a final order of removal
22 becomes eligible for parole, the Commission may authorize
23 the release of such prisoner and, when parole becomes ef-
24 fective, may deliver such prisoner to a duly authorized im-
25 migration official for removal.

1 **“§ 3642. Summons to appear or warrant for retaking**
2 **of parolee**

3 “(a) IN GENERAL.—If a parolee is alleged to have
4 violated the conditions of parole, the Commission may—

5 “(1) summon such parolee to appear at a hear-
6 ing conducted under section 3643; or

7 “(2) issue a warrant and retake the parolee as
8 provided in this section.

9 “(b) ISSUANCE OF SUMMONS OR WARRANT.—

10 “(1) IN GENERAL.—A summons or warrant
11 issued under this section shall be issued by the Com-
12 mission as soon as practicable after discovery of the
13 alleged violation, except when delay is determined
14 necessary.

15 “(2) IMPRISONMENT.—Imprisonment in an in-
16 stitution shall not constitute grounds for delay of
17 such issuance, except that, in the case of any parolee
18 charged with a criminal offense, issuance of a sum-
19 mons or warrant may be suspended pending disposi-
20 tion of the charge.

21 “(c) NOTICE.—A summons or warrant issued under
22 this section shall provide the parolee with written notice
23 of—

24 “(1) the conditions of parole imposed under
25 section 3638 that the parolee is alleged to have vio-
26 lated;

1 “(2) the rights of the parolee under this sub-
2 chapter; and

3 “(3) the possible action which may be taken by
4 the Commission.

5 “(d) EXECUTION OF WARRANTS.—An officer of a
6 Federal penal or correctional institution, or a Federal offi-
7 cer authorized to serve criminal process within the United
8 States, to whom a warrant issued under this section is
9 delivered, shall execute such warrant by taking such pa-
10 rolee and returning the parolee to the custody of the re-
11 gional commissioner, or to the custody of the Attorney
12 General, if the Commission shall so direct.

13 **“§ 3643. Revocation of parole**

14 “(a) REVOCATION GENERALLY.—

15 “(1) IN GENERAL.—Except as provided in sub-
16 sections (b) and (c)—

17 “(A) an alleged parole violator summoned
18 or retaken under section 3642 shall be afforded
19 the opportunity to have a preliminary hearing
20 at or reasonably near the place of the alleged
21 parole violation or arrest, without unnecessary
22 delay, to determine if there is probable cause to
23 believe that the parolee has violated a condition
24 of parole;

1 “(B) upon a finding of probable cause, and
2 except as provided in subparagraph (C)—

3 “(i) a digest shall be prepared by the
4 Commission setting forth in writing the
5 factors considered and the reasons for the
6 decision; and

7 “(ii) a copy of the digest shall be
8 given to the parolee within a reasonable
9 period of time;

10 “(C) the Commission may restore any pa-
11 rolee to parole supervision if—

12 “(i) continuation of revocation pro-
13 ceedings is not warranted;

14 “(ii) incarceration of the parolee
15 pending further revocation proceedings is
16 not warranted by the alleged frequency or
17 seriousness of such violation or violations;

18 “(iii) the parolee is not likely to fail to
19 appear for further proceedings; and

20 “(iv) the parolee does not constitute a
21 danger to himself, herself, or others; and

22 “(D) not later than 60 days after a finding
23 of probable cause, a revocation hearing shall be
24 held at or reasonably near the place of the al-
25 leged parole violation or arrest, except that a

1 revocation hearing may be held at the same
2 time and place set for the preliminary hearing.

3 “(2) HEARING PROCEDURES.—For a hearing
4 held under paragraph (1)—

5 “(A) notice shall be given to the parolee of
6 the conditions of parole alleged to have been
7 violated, and the time, place, and purposes of
8 the scheduled hearing;

9 “(B) the parolee shall have an opportunity
10 to be represented by an attorney (retained by
11 the parolee, or if the parolee is financially un-
12 able to retain counsel, counsel shall be provided
13 under section 3006A) or, if the parolee so
14 chooses, a representative as provided by rules
15 and regulations, unless the parolee knowingly
16 and intelligently waives such representation;

17 “(C) the parolee shall have an opportunity
18 to appear and testify, and present witnesses
19 and relevant evidence on his or her own behalf;
20 and

21 “(D) the parolee shall have an opportunity
22 to be apprised of the evidence against the pa-
23 rolee and, if the parolee so requests, to confront
24 and cross-examine adverse witnesses, unless the

1 Commission specifically finds substantial reason
2 for not so allowing.

3 “(3) SUBPOENAS.—For purposes of paragraph
4 (1), the Commission may subpoena witnesses and
5 evidence, and pay witness fees as established for the
6 courts of the United States. If a person refuses to
7 obey such a subpoena, the Commission may petition
8 a court of the United States for the judicial district
9 in which such parole proceeding is being conducted,
10 or in which such person may be found, to request
11 such person to attend, testify, and produce evidence.
12 The court may issue an order requiring such person
13 to appear before the Commission, when the court
14 finds such information, thing, or testimony directly
15 related to a matter with respect to which the Com-
16 mission is empowered to make a determination
17 under this section. Failure to obey such an order is
18 punishable by such court as a contempt. All process
19 in such a case may be served in the judicial district
20 in which such a parole proceeding is being con-
21 ducted, or in which such person may be found.

22 “(b) CONVICTION OF CRIMES WHILE ON PAROLE.—

23 “(1) IN GENERAL.—Conviction for a Federal,
24 State, or local crime committed subsequent to re-

1 lease on parole shall constitute probable cause for
2 purposes of subsection (a).

3 “(2) PAROLEES INCARCERATED.—If a parolee
4 has been convicted of a Federal, State, or local
5 crime and is serving a new sentence in an institu-
6 tion, a parole revocation warrant or summons issued
7 under section 3642 may be placed against the pa-
8 rolee as a detainer. Not later than 180 days after
9 the Commission receives notice of the placement of
10 a detainer, the detainer shall be reviewed by the
11 Commission. The parolee shall receive notice of the
12 pending review, have an opportunity to submit a
13 written application containing information relative to
14 the disposition of the detainer, and, unless waived,
15 shall have counsel as provided in subsection
16 (a)(2)(B) to assist in the preparation of such appli-
17 cation.

18 “(3) HEARING.—If the Commission determines
19 that additional information is needed to review a de-
20 tainer under paragraph (2), a dispositional hearing
21 may be held at the institution in which the parolee
22 is confined. The parolee shall receive notice of such
23 hearing, be allowed to appear and testify on his or
24 her own behalf, and, unless waived, shall have coun-
25 sel as provided in subsection (a)(2)(B).

1 “(4) RESOLUTION.—Following the review relat-
 2 ing to the disposition of a detainer, the Commission
 3 may—

4 “(A) let the detainer stand; or

5 “(B) withdraw the detainer.

6 “(c) CERTAIN ALLEGED PAROLE VIOLATORS.—

7 “(1) REVOCATION HEARING.—

8 “(A) IN GENERAL.—An alleged parole vio-
 9 lator described in subparagraph (B) shall re-
 10 ceive a revocation hearing within 90 days of the
 11 date of retaking.

12 “(B) COVERED ALLEGED PAROLE VIOLA-
 13 TORS.—An alleged parole violator described in
 14 this subparagraph is an alleged parole violator
 15 who—

16 “(i) is summoned or retaken by war-
 17 rant under section 3642 and knowingly
 18 and intelligently waives the right to a hear-
 19 ing under subsection (a);

20 “(ii) knowingly and intelligently ad-
 21 mits violation at a preliminary hearing
 22 held under subsection (a)(1)(A); or

23 “(iii) is retaken under subsection (b).

24 “(C) CONDUCT OF HEARING.—The Com-
 25 mission may conduct a hearing under subpara-

1 graph (A) at the institution to which the pa-
2 rolee has been returned, and the alleged parole
3 violator shall receive notice of the hearing, be
4 allowed to appear and testify on his or her own
5 behalf, and, unless waived, shall have counsel or
6 another representative as provided in subsection
7 (a)(2)(B).

8 “(d) DISPOSITION.—

9 “(1) IN GENERAL.—If a parolee is summoned
10 or retaken under section 3642, and the Commission
11 finds, in accordance with this section (including
12 paragraph (2) of this subsection) and by a prepon-
13 derance of the evidence, that the parolee has violated
14 a condition of parole, the Commission may—

15 “(A) restore the parolee to supervision;

16 “(B) reprimand the parolee;

17 “(C) modify the conditions of the parole of
18 the parolee;

19 “(D) refer the parolee to a residential com-
20 munity treatment center for all or part of the
21 remainder of the original sentence; or

22 “(E) formally revoke parole or release as if
23 on parole under this title.

1 “(2) REQUIREMENTS.—The Commission may
2 take an action under paragraph (1) if it has taken
3 into consideration—

4 “(A) whether the parolee has been con-
5 victed of any Federal, State, or local crime sub-
6 sequent to release on parole, and the serious-
7 ness thereof; and

8 “(B) whether the action is warranted by
9 the frequency or seriousness of the violation by
10 the parolee of any other condition or conditions
11 of parole.

12 “(e) NOTICE.—Not later than 21 days, excluding
13 holidays, after a revocation hearing under this section, the
14 Commission shall furnish the parolee with a written notice
15 of its determination. If parole is revoked, a digest shall
16 be prepared by the Commission setting forth in writing
17 the factors considered and reasons for such action, a copy
18 of which shall be given to the parolee.

19 **“§ 3644. Reconsideration and appeal**

20 “(a) IN GENERAL.—If parole release is denied under
21 section 3635, parole conditions are imposed or modified
22 under section 3638, parole discharge is denied under sec-
23 tion 3640(c), or parole is modified or revoked under sec-
24 tion 3643, the individual to whom such decision applies
25 may have the decision reconsidered by submitting a writ-

1 ten application to the regional Commissioner not later
2 than 30 days after the date on which the decision is ren-
3 dered.

4 “(b) REVIEW BY REGIONAL COMMISSIONER.—Not
5 later than 30 days after receipt of an application under
6 subsection (a), a regional Commissioner shall—

7 “(1) acting in accordance with rules and regula-
8 tions, reaffirm, modify, or reverse the original deci-
9 sion; and

10 “(2) inform the applicant in writing of the deci-
11 sion and the reasons therefor.

12 “(c) APPEAL TO NATIONAL APPEALS BOARD.—

13 “(1) IN GENERAL.—Any decision made under
14 subsection (b) which is adverse to the applicant for
15 reconsideration may be appealed by the individual to
16 the National Appeals Board by submitting a written
17 notice of appeal not later than 30 days following the
18 date on which such decision is rendered.

19 “(2) REVIEW.—In accordance with rules and
20 regulations, the National Appeals Board—

21 “(A) not later than 60 days after receipt
22 of an appellant’s papers, shall reaffirm, modify,
23 or reverse the decision; and

24 “(B) shall inform the appellant in writing
25 of the decision and the reasons therefor.

1 **“§ 3645. Young adult offenders**

2 “(a) DEFINITION.—In this section, the term ‘young
3 adult offender’ means an individual—

4 “(1) who has been convicted of a Federal of-
5 fense; and

6 “(2) on the date of the conviction, is not less
7 than 22 years of age and is less than 26 years of
8 age.

9 “(b) TREATMENT AS A JUVENILE.—A young adult
10 offender may be deemed a juvenile for purposes of chapter
11 403 if, after taking into consideration the previous record
12 of the young adult offender as to delinquency or criminal
13 experience, the social background, capabilities, mental and
14 physical health of the young adult offender, and such
15 other factors as may be considered pertinent, the court
16 finds that there are reasonable grounds to believe that the
17 young adult offender will benefit from being treated as a
18 juvenile under chapter 403.

19 **“§ 3646. Applicability of Administrative Procedure**
20 **Act**

21 “(a) IN GENERAL.—The Commission shall be an
22 agency for purposes of chapter 5 of title 5, except for sec-
23 tions 554, 555, 556, and 557.

24 “(b) RULEMAKING.—For purposes of subsection (a),
25 section 553(b)(3)(A) of title 5 shall be applied as though
26 ‘, general statements of policy,’ were struck.

1 “(c) JUDICIAL REVIEW.—To the extent that actions
2 of the Commission under section 3632(a)(1) are not in
3 accord with section 553 of title 5, they shall be reviewable
4 in accordance with chapter 7 of title 5.

5 “(d) EXCLUSION OF CERTAIN ACTIONS.—Actions of
6 the Commission under paragraphs (1), (2), and (3) of sec-
7 tion 3632(b) shall be considered actions committed to
8 agency discretion for purposes of section 701(a)(2) of title
9 5.”.

10 (b) PERMANENT CONTINUATION OF PAROLE COM-
11 MISSION.—Notwithstanding section 235(b) of the Sen-
12 tencing Reform Act of 1984 (18 U.S.C. 3551 note), the
13 United States Parole Commission shall not be terminated
14 under such section and appointments to the United States
15 Parole Commission shall be made in accordance with sec-
16 tion 4202 of title 18, United States Code, as in effect on
17 the day before the effective date of the Sentencing Reform
18 Act of 1984 under section 235(a) of such Act (18 U.S.C.
19 3551 note).

20 (c) CREDIT TOWARD SERVICE OF SENTENCE FOR
21 SATISFACTORY BEHAVIOR.—Section 3624(b) of title 18,
22 United States Code, is amended by adding at the end the
23 following:

24 “(5) A prisoner having served the term or
25 terms of imprisonment of the prisoner, less credit to-

1 ward the service of the prisoner’s sentence under
2 this subsection, shall, upon release, be deemed as if
3 released on parole until the expiration of the max-
4 imum term or terms for which the prisoner was sen-
5 tenced less 180 days. This paragraph shall not pre-
6 vent delivery of a prisoner to the authorities of any
7 State otherwise entitled to custody of the prisoner.”.

8 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

9 (1) Section 3553 of title 18, United States
10 Code, is amended—

11 (A) in subsection (b), by inserting “max-
12 imum” before “sentence of the kind” each place
13 it appears; and

14 (B) in subsection (c), in the matter pre-
15 ceding paragraph (1), by inserting “maximum”
16 before “sentence—”.

17 (2) Section 3621(a) of title 18, United States
18 Code, is amended by inserting “on parole” before
19 “for satisfactory behavior”.

20 (3) Section 3624 of title 18, United States
21 Code, is amended—

22 (A) in subsection (a), by striking “A pris-
23 oner” and inserting “Subject to release on pa-
24 role under subchapter D, a prisoner”;

1 (B) in subsection (b)(2), by inserting “,
2 which shall not include a release on parole
3 under subchapter D” after “released from cus-
4 tody”; and

5 (C) in subsection (d), by inserting “or on
6 parole under subchapter D” after “Upon the
7 release of a prisoner”.

8 (4) Section 4321 of title 18, United States
9 Code, is amended by inserting “or parole” before the
10 period at the end.

11 (5) Chapter 403 of title 18, United States
12 Code, is amended—

13 (A) by inserting after section 5040 the fol-
14 lowing:

15 **“§ 5041. Parole**

16 “A juvenile delinquent who has been committed may
17 be released on parole at any time under such conditions
18 and regulations as the United States Parole Commission
19 determines proper in accordance with section 3635.”; and

20 (B) by striking the item relating to section
21 5041 and inserting the following:

“5041. Parole.”.

22 (6) The table of subchapters for chapter 229 of
23 title 18, United States Code, is amended by insert-

1 ing after the item relating to subchapter C the fol-
 2 lowing:

“D. Parole 3631”.

3 (7) The Controlled Substances Act (21 U.S.C.
 4 801 et seq.) is amended—

5 (A) in section 401(b)(1) (21 U.S.C.
 6 841(b)(1))—

7 (i) in subparagraph (A), in the matter
 8 following clause (viii), by striking the last
 9 sentence;

10 (ii) in subparagraph (B), in the mat-
 11 ter following clause (viii), by striking the
 12 last sentence; and

13 (iii) in subparagraph (C), in the last
 14 sentence, by striking “, nor shall a person
 15 so sentenced be eligible for parole during
 16 the term of such a sentence”;

17 (B) in section 419(d) (21 U.S.C. 860(d)),
 18 by striking the second sentence; and

19 (C) in section 420(e) (21 U.S.C. 861(e)),
 20 by striking the second sentence.

21 (8) Section 1010(b) of the Controlled Sub-
 22 stances Import and Export Act (21 U.S.C. 960(b))
 23 is amended—

1 (A) in paragraph (1), in the matter fol-
 2 lowing subparagraph (H), by striking the last
 3 sentence; and

4 (B) in paragraph (2), in the matter fol-
 5 lowing subparagraph (H), by striking the last
 6 sentence.

7 (e) APPLICABILITY.—The amendments made by this
 8 section shall apply with respect to any sentence imposed
 9 on or after January 1, 2017.

10 **SEC. 6. CFPB OVERSIGHT OF PROVIDERS OF MONEY**
 11 **TRANSFER SERVICES FOR CORRECTIONAL**
 12 **AND IMMIGRATION DETENTION FACILITIES.**

13 (a) DEFINITIONS.—In this section—

14 (1) the term “Bureau” means the Bureau of
 15 Consumer Financial Protection;

16 (2) the term “correctional facility” means a jail,
 17 prison, or other detention facility used to house peo-
 18 ple who have been arrested, detained, held, or con-
 19 victed by a criminal justice agency or a court;

20 (3) the term “covered inmate” means—

21 (A) an individual who is being held, de-
 22 tained, or incarcerated in a correctional facility;
 23 and

24 (B) an individual who is being held in an
 25 immigration detention facility;

1 (4) the term “covered provider” means a pro-
2 vider of a service, including a money transfer serv-
3 ice, that—

4 (A) facilitates the electronic transfer of
5 funds from an individual who is not a covered
6 inmate to a covered inmate;

7 (B) provides a payment to a covered in-
8 mate who is being released from a correctional
9 facility or an immigration detention facility; or

10 (C) provides a payment on behalf of a cov-
11 ered inmate; and

12 (5) the term “immigration detention facility”
13 means a Federal, State, or local government facility,
14 or a privately owned and operated facility, that is
15 used, in whole or in part, to hold individuals under
16 the authority of the Director of U.S. Immigration
17 and Customs Enforcement, including facilities that
18 hold such individuals under a contract or agreement
19 with the Department of Homeland Security.

20 (b) REASONABLE AND PROPORTIONAL FEE OR
21 CHARGE.—The amount of any fee or charge that a cov-
22 ered provider may impose with respect to a service de-
23 scribed in subparagraph (A), (B), or (C) of subsection
24 (a)(4) shall be reasonable and proportional to the relative
25 cost or value of the service.

1 (c) REQUIREMENT TO ISSUE REGULATIONS.—

2 (1) IN GENERAL.—Not later than 3 years after
3 the date of enactment of this Act, the Bureau shall
4 issue final rules to establish standards for assessing
5 whether the amount of any fee or charge described
6 in subsection (b) is reasonable and proportional to
7 the relative cost or value of the service provided by
8 a covered provider.

9 (2) CONSIDERATIONS.—In issuing the final
10 rules under paragraph (1), the Bureau shall con-
11 sider—

12 (A) whether there are alternative means
13 for transferring funds into correctional facilities
14 and immigration detention facilities;

15 (B) whether those alternatives can reason-
16 ably be considered comparable;

17 (C) differing cost structures for transfer-
18 ring funds into correctional facilities and immi-
19 gration detention facilities; and

20 (D) such other factors as the Bureau may
21 determine necessary or appropriate.

22 (3) DIFFERENTIATION PERMITTED.—In issuing
23 the final rules under paragraph (1), the Bureau may
24 establish different standards for different types of
25 fees and charges, as appropriate.

1 **SEC. 7. RESTRICTIONS ON THE PROVISION OF INMATE**
2 **TELEPHONE AND VIDEO SERVICE.**

3 (a) DEFINITIONS.—Section 226(a) of the Commu-
4 nications Act of 1934 (47 U.S.C. 226(a)) is amended by
5 adding at the end the following:

6 “(10) The term ‘ancillary fee’ includes any
7 charge or fee that is imposed on a user of inmate
8 telephone and video service in addition to the per-
9 minute rate and connection charge.

10 “(11) The term ‘collect’ or ‘collect call’ means
11 a telephone call or video call from a person incarcer-
12 ated in a correctional institution that is billed to the
13 subscriber receiving the call.

14 “(12) The term ‘commission’ means a fee or
15 other payment by a provider of inmate telephone
16 and video service to an administrator of a correc-
17 tional institution, department of correction, or simi-
18 lar entity, based upon, or partly upon, inmate tele-
19 phone and video service revenue.

20 “(13) The term ‘debit account’ means the pay-
21 ment of inmate telephone and video service through
22 a prepaid card or other account of a prisoner, which
23 can be accessed only through an access code, per-
24 sonal identification number, or similar identifier.

25 “(14) The term ‘inmate telephone and video
26 service’ includes the provision of telephone and video

1 service enabling persons incarcerated in correctional
2 institutions to originate calls at payphones, tele-
3 phones, or video kiosks that are designated for the
4 personal use of prisoners, regardless of whether the
5 calls are collect, paid through a debit account, or
6 paid through any other means.

7 “(15) The term ‘provider of inmate telephone
8 and video service’ means any common carrier that
9 provides inmate telephone and video service or any
10 other person determined by the Commission to be
11 providing inmate telephone and video service.”.

12 (b) REGULATIONS.—Section 226 of the Communica-
13 tions Act of 1934 (47 U.S.C. 226) is further amended—

14 (1) by redesignating subsection (i) as subsection
15 (k); and

16 (2) by inserting after subsection (h) the fol-
17 lowing:

18 “(i) REGULATION OF INMATE TELEPHONE AND
19 VIDEO SERVICE.—

20 “(1) IN GENERAL.—In order to ensure that
21 charges for inmate telephone and video service are
22 just, reasonable, and nondiscriminatory, not later
23 than 1 year after the date of enactment of the Jus-
24 tice is Not For Sale Act of 2015, the Commission

1 shall adopt regulations on the use of inmate tele-
2 phone and video service that—

3 “(A) prescribe a maximum uniform per-
4 minute compensation rate;

5 “(B) prescribe a maximum uniform service
6 connection or other per-call compensation rate;

7 “(C) prescribe variable maximum com-
8 pensation rates depending on such factors as
9 carrier costs, the size of the correctional facility
10 served, and other relevant factors identified by
11 the Commission;

12 “(D) require providers of inmate telephone
13 and video service to offer both collect calling
14 and debit account services;

15 “(E) address the payment of commissions
16 by providers of inmate telephone and video
17 service to administrators of correctional institu-
18 tions, departments of correction, and similar
19 entities by—

20 “(i) prohibiting such payments; or

21 “(ii) limiting commission payments;

22 “(F) require administrators of correctional
23 institutions, departments of correction, and
24 similar entities to allow more than 1 provider of
25 inmate telephone and video service to provide

1 inmate telephone and video service at a correc-
2 tional institution so that prisoners have a choice
3 of such providers; and

4 “(G) prohibit or substantially limit any an-
5 cillary fees imposed by a provider of inmate
6 telephone and video service on a user of the
7 service.

8 “(2) SCOPE.—

9 “(A) IN GENERAL.—The regulations
10 adopted by the Commission under this sub-
11 section—

12 “(i) shall be technologically neutral;
13 and

14 “(ii) shall not jeopardize legitimate se-
15 curity and penological interests.

16 “(B) IMPACT ON REVENUE.—To the extent
17 the regulations adopted by the Commission
18 under this subsection reduce or eliminate the
19 revenue derived by administrators of correc-
20 tional institutions, departments of correction,
21 and similar entities from the receipt of commis-
22 sions, such effects of the regulations shall not
23 be considered to be jeopardizing or otherwise
24 affecting legitimate security or penological in-
25 terests.

1 “(3) PERIODIC REVIEW.—The Commission shall
2 review, on a biennial basis, the regulations adopted
3 under this subsection, including to determine wheth-
4 er any compensation rates established by the Com-
5 mission should be modified.

6 “(4) STATE PREEMPTION.—To the extent that
7 any State, local government, or private correctional
8 facility requirements are inconsistent with the regu-
9 lations of the Commission affecting or pertaining to
10 inmate telephone and video service, including restric-
11 tions on the payment of commissions based upon in-
12 mate telephone and video service revenues or earn-
13 ings, the regulations of the Commission on such
14 matters shall preempt the State, local government,
15 or private correctional facility requirements.

16 “(j) INMATE TELEPHONE AND VIDEO SERVICE
17 FULLY SUBJECT TO SECTIONS 201, 205, 251, 252, AND
18 276.—

19 “(1) IN GENERAL.—Inmate telephone and video
20 service shall be fully subject to the requirements of
21 sections 201, 205, 251, 252, and 276.

22 “(2) RESTRICTION.—A provider of inmate tele-
23 phone and video service may not block or otherwise
24 refuse to carry a call placed by an incarcerated per-
25 son on the grounds that the provider has no contrac-

1 tual or other arrangement with the local exchange
2 carrier serving the intended recipient of the call or
3 other common carrier involved in any portion of the
4 transmission of the call.”.

5 **SEC. 8. TERMINATION OF DETENTION BED QUOTA.**

6 (a) IN GENERAL.—Title II of the Department of
7 Homeland Security Appropriations Act, 2015 (Public Law
8 114–4) is amended, under the heading “UNITED STATES
9 IMMIGRATION AND CUSTOMS ENFORCEMENT”, by striking
10 “*Provided further*, That funding made available under this
11 heading shall maintain a level of not less than 34,000 de-
12 tention beds through September 30, 2015:”.

13 (b) DETENTION CAPACITY.—Notwithstanding any
14 other provision of law, the number of detention beds main-
15 tained by U.S. Immigration and Customs Enforcement
16 shall be determined by the Secretary of Homeland Secu-
17 rity and shall be based solely on detention needs.

18 (c) ALTERNATIVES TO DETENTION.—

19 (1) IN GENERAL.—The Secretary of Homeland
20 Security shall establish nationwide alternatives to
21 detention programs that incorporate case manage-
22 ment services in each field office of the Department
23 of Homeland Security to ensure appearances at im-
24 migration proceedings and public safety.

1 (2) CONTRACT AUTHORITY.—The Secretary
2 may contract with nongovernmental community-
3 based organizations—

4 (A) to conduct screening of detainees;

5 (B) to operate community-based super-
6 vision programs; and

7 (C) to implement secure alternatives that
8 allow U.S. Immigration and Customs Enforce-
9 ment to maintain custody over the alien.

10 (3) ASSESSMENTS.—The Secretary shall regu-
11 larly assess the demand for alternative to detention
12 programs and make available sufficient alternative
13 to detention slots regardless of proximity to available
14 detention beds. Alternative programs shall offer a
15 continuum of supervision mechanisms and options,
16 including community support, depending on an as-
17 sessment of each individual’s circumstances. Infor-
18 mation regarding the amount of slots available in
19 each area shall be made public.

20 (4) INDIVIDUALIZED DETERMINATIONS.—In de-
21 termining whether to use alternatives to detention
22 programs, the Secretary shall make an individualized
23 determination, and for each individual placed in an
24 alternatives to detention program, shall review the
25 level of supervision on a monthly basis. Alternatives

1 to detention programs shall not be used when release
2 on bond or recognizance is determined to be a suffi-
3 cient measure to ensure appearances at immigration
4 proceedings and public safety. Detention shall not be
5 used when alternatives to detention programs are
6 determined to be a sufficient measure to ensure ap-
7 pearances at immigration proceedings and public
8 safety.

9 (5) CUSTODY.—The Secretary may use alter-
10 natives to detention programs to maintain custody
11 over any alien detained under the Immigration and
12 Nationality Act, except for aliens detained under
13 section 236A of such Act (8 U.S.C. 1226a). If an
14 individual is not eligible for release from custody or
15 detention, the Secretary shall consider the alien for
16 placement in alternative programs that maintain
17 custody over the alien.

18 (6) VULNERABLE POPULATIONS.—

19 (A) DEFINED TERM.—In this paragraph,
20 the term “vulnerable population” includes, but
21 is not limited to, asylum seekers, victims of tor-
22 ture or trafficking, families with minor children,
23 pregnant women, nursing mothers, individuals
24 who are gay, lesbian, bisexual, or transgender,
25 individuals with a mental or physical disability,

1 and individuals who are older than 65 years of
2 age.

3 (B) CONSIDERATIONS FOR PLACEMENT.—

4 In determining whether to place a detainee in
5 an alternatives to detention program, the Sec-
6 retary shall consider whether the detainee is a
7 member of a vulnerable population. Notwith-
8 standing section 236 of the Immigration and
9 Nationality Act (8 U.S.C. 1226), a member of
10 a vulnerable population whose needs cannot be
11 adequately met by a detention facility may not
12 be held in a detention facility unless the Sec-
13 retary determines such placement is in the in-
14 terest of national security.

15 **SEC. 9. OVERSIGHT OF DETENTION FACILITIES.**

16 (a) DEFINITIONS.—In this section:

17 (1) APPLICABLE STANDARDS.—The term “ap-
18 plicable standards” means the most recent version of
19 detention standards and detention-related policies
20 issued by the Secretary or the Director of U.S. Im-
21 migration and Customs Enforcement.

22 (2) DETENTION FACILITY.—The term “deten-
23 tion facility” means a Federal, State, or local gov-
24 ernment facility, or a privately owned and operated
25 facility, that is used, in whole or in part, to hold in-

1 individuals under the authority of the Director of U.S.
2 Immigration and Customs Enforcement, including
3 facilities that hold such individuals under a contract
4 or agreement with the Department of Homeland Se-
5 curity.

6 (b) DETENTION REQUIREMENTS.—The Secretary of
7 Homeland Security shall ensure that all persons detained
8 pursuant to the Immigration and Nationality Act (8
9 U.S.C. 1101 et seq.) are treated humanely and benefit
10 from the protections set forth in this section.

11 (c) OVERSIGHT REQUIREMENTS.—

12 (1) ANNUAL INSPECTION.—All detention facili-
13 ties housing aliens in the custody of the Department
14 of Homeland Security shall be inspected, for compli-
15 ance with applicable detention standards issued by
16 the Secretary and other applicable regulations, by—

17 (A) the Secretary of Homeland Security at
18 least annually; and

19 (B) an independent, third-party auditor at
20 least biannually.

21 (2) ROUTINE OVERSIGHT.—In addition to the
22 inspections required under paragraph (1), the Sec-
23 retary shall conduct routine oversight of the deten-
24 tion facilities described in paragraph (1), including
25 unannounced inspections.

1 (3) AVAILABILITY OF RECORDS.—All detention
2 facility contracts, memoranda of agreement, audits,
3 inspections, evaluations and reviews, include those
4 conducted by the Office for Civil Rights and Civil
5 Liberties and the Office of Inspector General of the
6 Department of Homeland Security, shall be consid-
7 ered records for purposes of section 552(f)(2) of title
8 5, United States Code.

9 (4) CONSULTATION.—The Secretary shall seek
10 input from nongovernmental organizations regarding
11 their independent opinion of specific facilities.

12 (d) COMPLIANCE MECHANISMS.—

13 (1) AGREEMENTS.—

14 (A) NEW AGREEMENTS.—Compliance with
15 applicable standards of the Secretary of Home-
16 land Security and all applicable regulations, and
17 meaningful financial penalties for failure to
18 comply, shall be a material term in any new
19 contract, memorandum of agreement, or any re-
20 negotiation, modification, or renewal of an ex-
21 isting contract or agreement, including fee ne-
22 gotiations, executed with detention facilities.

23 (B) EXISTING AGREEMENTS.—Not later
24 than 180 days after the date of the enactment
25 of this Act, the Secretary shall secure a modi-

1 fication incorporating these terms for any exist-
2 ing contracts or agreements that will not be re-
3 negotiated, renewed, or otherwise modified.

4 (C) CANCELLATION OF AGREEMENTS.—

5 Unless the Secretary provides a reasonable ex-
6 tension to a specific detention facility that is
7 negotiating in good faith, contracts or agree-
8 ments with detention facilities that are not
9 modified within 1 year of the date of the enact-
10 ment of this Act will be cancelled.

11 (D) PROVISION OF INFORMATION.—In

12 making modifications under this paragraph, the
13 Secretary shall require that detention facilities
14 provide to the Secretary all contracts, memo-
15 randa of agreement, evaluations, and reviews
16 regarding the facility on a regular basis. The
17 Secretary shall make these materials publicly
18 available on a timely and regular basis.

19 (2) FINANCIAL PENALTIES.—

20 (A) REQUIREMENT TO IMPOSE.—Subject

21 to subparagraph (C), the Secretary shall impose
22 meaningful financial penalties upon facilities
23 that fail to comply with applicable detention
24 standards issued by the Secretary and other ap-
25 plicable regulations.

1 (B) TIMING OF IMPOSITION.—Financial
2 penalties imposed under subparagraph (A) shall
3 be imposed immediately after a facility fails to
4 achieve an adequate or the equivalent median
5 score in any performance evaluation.

6 (C) WAIVER.—The requirements of sub-
7 subparagraph (A) may be waived if the facility cor-
8 rects the noted deficiencies and receives an ade-
9 quate score in not more than 90 days.

10 (D) MULTIPLE OFFENDERS.—If the Sec-
11 retary determines that a facility has been per-
12 sistently and substantially violated the deten-
13 tion standards issued by the Secretary, includ-
14 ing by scoring less than adequate or the equiva-
15 lent median score in 2 consecutive inspections—

16 (i) the Secretary shall terminate con-
17 tracts or agreements with such facilities
18 within 60 days; or

19 (ii) in the case of facilities operated by
20 the Secretary, the Secretary shall close
21 such facilities within 90 days.

22 (e) REPORTING REQUIREMENTS.—

23 (1) OBJECTIVES.—Not later than June 30 of
24 each year, the Secretary of Homeland Security shall
25 submit a report to the Committee on the Judiciary

1 of the Senate and the Committee on the Judiciary
2 of the House of Representatives that describes the
3 inspection and oversight activities at detention facili-
4 ties.

5 (2) CONTENTS.—Each report submitted under
6 paragraph (1) shall include—

7 (A) a description of each detention facility
8 found to be in noncompliance with applicable
9 detention standards issued by the Department
10 of Homeland Security and other applicable reg-
11 ulations;

12 (B) a description of the actions taken by
13 the Department to remedy any findings of non-
14 compliance or other identified problems, includ-
15 ing financial penalties, contract or agreement
16 termination, or facility closure; and

17 (C) information regarding whether the ac-
18 tions described in subparagraph (B) resulted in
19 compliance with applicable detention standards
20 and regulations.

21 **SEC. 10. TERMINATION OF FAMILY DETENTION.**

22 Section 236 of the Immigration and Nationality Act
23 (8 U.S.C. 1226) is amended by adding at the end the fol-
24 lowing:

25 “(f) PROHIBITION ON DETENTION OF FAMILIES.—

1 “(1) PROHIBITION.—Notwithstanding any other
2 provision of this Act and except as provided in para-
3 graph (2), the Secretary of Homeland Security is
4 prohibited from—

5 “(A) detaining a family unit under the au-
6 thority of this section; or

7 “(B) separating a family unit whose mem-
8 bers were apprehended together in order to de-
9 tain a family member under this section.

10 “(2) EXCEPTION.—The Secretary of Homeland
11 Security may detain alien parents who are—

12 “(A) shown through an individualized de-
13 termination to pose a danger to the community
14 which cannot be mitigated by other conditions
15 of release; and

16 “(B) inadmissible under section 212(a)(3).

17 “(3) ALTERNATIVES TO DETENTION.—

18 “(A) IN GENERAL.—The Secretary of
19 Homeland Security shall establish alternatives
20 to detention programs for family units who are
21 prohibited from being detained pursuant to
22 paragraph (1).

23 “(B) EXCEPTION.—Alternatives to deten-
24 tion programs may not be used if release on
25 bond or recognizance is determined to be a suf-

1 efficient measure to ensure appearances at immi-
2 gration proceedings and public safety.”.

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