

# Calendar No. 279

114TH CONGRESS  
1ST SESSION

# S. 2123

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

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 2015

Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. CORNYN, Mr. WHITEHOUSE, Mr. LEE, Mr. SCHUMER, Mr. GRAHAM, Mr. LEAHY, Mr. BOOKER, Mr. SCOTT, Mr. TILLIS, Mr. COONS, Mr. MORAN, Mr. BLUMENTHAL, Mr. FLAKE, Mr. FRANKEN, Mrs. FEINSTEIN, Ms. KLOBUCHAR, and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

OCTOBER 26, 2015

Reported by Mr. GRASSLEY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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## A BILL

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

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

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

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

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

See. 1. Short title; table of contents.

#### TITLE I—SENTENCING REFORM

See. 101. Reduce and restrict enhanced sentencing for prior drug felonies.

See. 102. Broadening of existing safety valve.

See. 103. Limitation on application of the 10-year mandatory minimum.

See. 104. Clarification of section 924(e) of title 18, United States Code.

See. 105. Amendment to certain penalties for certain firearm offenses and  
 armed career criminal provision.

See. 106. Application of Fair Sentencing Act.

See. 107. Mandatory minimum sentences for domestic violence offenses.

See. 108. Minimum term of imprisonment for certain acts relating to the provi-  
 sion of controlled goods or services to terrorists or proliferators  
 of weapons of mass destruction.

See. 109. Inventory of Federal criminal offenses.

#### TITLE II—CORRECTIONS ACT

See. 201. Short title.

See. 202. Recidivism reduction programming and productive activities.

See. 203. Post-sentencing risk and needs assessment system.

See. 204. Prerelease custody.

See. 205. Reports.

See. 206. Additional tools to promote recovery and prevent drug and alcohol  
 abuse and dependence.

See. 207. Eric Williams Correctional Officer Protection Act.

See. 208. Promoting successful reentry.

See. 209. Parole for juveniles.

See. 210. Compassionate release initiative.

See. 211. Juvenile sealing and expungement.

See. 212. Juvenile solitary confinement.

See. 213. Ensuring accuracy of Federal criminal records.

### 3 **TITLE I—SENTENCING REFORM**

#### 4 **SEC. 101. REDUCE AND RESTRICT ENHANCED SENTENCING**

##### 5 **FOR PRIOR DRUG FELONIES.**

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

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

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

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

6           “(A) an offense described in section  
 7 3559(e)(2)(F) of title 18, United States Code,  
 8 for which the offender served a term of impris-  
 9 onment of more than 12 months; and

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

17           (2) in section 401(b)(1) (21 U.S.C.  
 18 841(b)(1))—

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

21           (i) by striking “If any person commits  
 22 such a violation after a prior conviction for  
 23 a felony drug offense has become final,  
 24 such person shall be sentenced to a term of  
 25 imprisonment which may not be less than

1           20 years” and inserting the following: “If  
2           any person commits such a violation after  
3           a prior conviction for a serious drug felony  
4           or serious violent felony has become final,  
5           such person shall be sentenced to a term of  
6           imprisonment of not less than 15 years”;  
7           and

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

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

1       (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT  
2 ACT AMENDMENTS.—Section 1010(b) of the Controlled  
3 Substances Import and Export Act (21 U.S.C. 960(b)) is  
4 amended—

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

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

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

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

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

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

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

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

21           “(1) the defendant does not have—

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

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

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

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

5           “(g) INADEQUACY OF CRIMINAL HISTORY.—

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

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

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

24                  “(1) the term ‘drug trafficking offense’ means  
25                  an offense that is punishable by imprisonment under

1 any law of the United States, or of a State or for-  
 2 eign country, that prohibits or restricts the importa-  
 3 tion, manufacture, or distribution of controlled sub-  
 4 stances or the possession of controlled substances  
 5 with intent to distribute; and

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

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

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

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

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



1 the court finds at sentencing, after the Government has  
2 been afforded the opportunity to make a recommendation,  
3 that—

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

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

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

24           “(4) the defendant did not act as an importer,  
25 exporter, high-level distributor or supplier, whole-

1       saler, or manufacturer of the controlled substances  
2       involved in the offense or engage in a continuing  
3       criminal enterprise, as defined in section 408 of the  
4       Controlled Substances Act (21 U.S.C. 848);

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

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

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

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

23           “(A) means a defendant who imported, ex-  
24      ported, or otherwise distributed or supplied

1 large quantities of a controlled substance to  
 2 other drug distributors; and

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

6 “(2) the term ‘manufacturer’ means a defend-  
 7 ant who grew, produced, or manufactured a con-  
 8 trolled substance and was the principal owner of  
 9 such controlled substance; and

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

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

16 **SEC. 104. CLARIFICATION OF SECTION 924(e) OF TITLE 18,**  
 17 **UNITED STATES CODE.**

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

20 (1) in the matter preceding clause (i), by strik-  
 21 ing “second or subsequent conviction under this sub-  
 22 section” and inserting “violation of this subsection  
 23 that occurs after a prior conviction under this sub-  
 24 section or under State law for a crime of violence  
 25 that contains as an element of the offense the ear-

1 rying, brandishing, or use of a firearm has become  
2 final"; and

3 (2) in clause (i), by striking "not less than 25  
4 years" and inserting "not less than 15 years".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

10 “(i) a state sponsor of terrorism;

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

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

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

1           “(C) the provision of defense articles or de-  
2           fense services, without a license or other written  
3           approval of the Department of State, to, or for  
4           the use of, a country subject to an arms embar-  
5           go by the United States.

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

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

11           “(i) the United States Munitions List  
12          maintained pursuant to part 121 of title  
13          22, Code of Federal Regulations;

14           “(ii) the Commerce Control List  
15          maintained pursuant to part 774 of title  
16          15, Code of Federal Regulations; or

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

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

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

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

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

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

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

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

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

6                   “(iv) any other provision of law.

7                   “(E) WEAPON OF MASS DESTRUCTION.—

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

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

12                  (a) DEFINITIONS.—In this section—

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

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

18                  (b) REPORT ON CRIMINAL STATUTORY OFFENSES.—

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

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

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

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

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

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

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

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

23                   (A) a list of all criminal regulatory of-  
24                   fenses enforceable by the agency; and

1           (B) for each criminal regulatory offense  
2 listed under subparagraph (A)—

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

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

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

13           (2) AGENCIES DESCRIBED.—The Federal agen-  
14 cies described in this paragraph are the Department  
15 of Agriculture, the Department of Commerce, the  
16 Department of Education, the Department of En-  
17 ergy, the Department of Health and Human Serv-  
18 ices, the Department of Homeland Security, the De-  
19 partment of Housing and Urban Development, the  
20 Department of the Interior, the Department of  
21 Labor, the Department of Transportation, the De-  
22 partment of the Treasury, the Commodity Futures  
23 Trading Commission, the Consumer Product Safety  
24 Commission, the Equal Employment Opportunity  
25 Commission, the Export-Import Bank of the United

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

4 “(2) EXPANSION PERIOD.—

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

12 “(B) CERTIFICATION.—

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

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

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

9           ~~“(3) RECIDIVISM REDUCTION PARTNERSHIPS.—~~

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

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

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

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

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

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

12                   “(iii) employ prisoners; or

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

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

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

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

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

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

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

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

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

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

13 ~~“(A) TIME CREDITS.—~~

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

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

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

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

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

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

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

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

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

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

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



1 of imprisonment of more than 15  
2 years.

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

7 “(VII) A violation of—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12                  “(II) may include—

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

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

17                           “(cc) academic classes;

18                           “(dd) cognitive behavioral  
19                           treatment;

20                           “(ee) mentoring;

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

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

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

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

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

10                  “~~(kk)~~ a prison job; and

11                  “~~(ii)~~ shall include—

12                       “~~(I)~~ a productive activity; and

13                       “~~(II)~~ recovery programming.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

23 “(1) assess and determine the recidivism risk  
 24 level of all prisoners and classify each prisoner as  
 25 having a low, moderate, or high risk of recidivism;

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

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

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

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

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

21          “(b) DEVELOPMENT OF SYSTEM.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “(e) RISK ASSESSMENT.—

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

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

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

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

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

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

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

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

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

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

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

14 “(i) DEFINITIONS.—In this section:

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           ~~“(4) HOME CONFINEMENT.—~~

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

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

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

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

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

24                             ~~“(III) participation in community~~  
25                             ~~service;~~

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

3                   “~~(V)~~ medical treatment; or

4                   “~~(VI)~~ religious activities; and

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

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

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

22                  “~~(5)~~ COMMUNITY SUPERVISION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

3 ~~“(7) CREDIT FOR PRERELEASE CUSTODY.—~~

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

10          “(D) HEARING.—

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

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

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

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

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

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

7 “(E) DETERMINATION OF THE COURT.—

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

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

19 **SEC. 205. REPORTS.**

20 (a) ANNUAL REPORTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (c) REPORTING ON RECIDIVISM RATES.—

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



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

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

8 ~~(A) Primary offense charged.~~

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

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

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

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

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

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

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

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

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

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

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

21 (a) REENTRY AND RECOVERY PLANNING.—

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

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

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

6           “(b) REENTRY AND RECOVERY PLANNING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

5            (4) ADVISORY SENTENCING POLICIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24           “(b) **TRAINING REQUIREMENT.**—

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

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

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

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

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

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

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

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

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

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

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

1           (A) reducing crime in such prisons; and

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

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

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

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

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

21           (a) **FEDERAL REENTRY DEMONSTRATION**  
22 **PROJECTS.—**

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 ~~(e)~~ FACILITATING REENTRY ASSISTANCE TO VET-  
9 ERANS.—

10 (1) IN GENERAL.—Not later than 2 months  
11 after the date of the commencement of a prisoner's  
12 sentence pursuant to section 3585(a) of title 18,  
13 United States Code, the Director of the Bureau of  
14 Prisons shall notify the Secretary of Veterans Af-  
15 fairs if the prisoner's presentence report, prepared  
16 pursuant to section 3552 of title 18, United States  
17 Code, indicates that the prisoner has previously  
18 served in the Armed Forces of the United States or  
19 if the prisoner has so notified the Bureau of Prisons.

20 (2) POST-COMMENCEMENT NOTICE.—If the  
21 prisoner informs the Bureau of Prisons of the pris-  
22 oner's prior service in the Armed Forces of the  
23 United States after the commencement of the pris-  
24 oner's sentence, the Director of the Bureau of Pris-  
25 ons shall notify the Secretary of Veterans Affairs

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

4           “(e) PROCEDURES.—

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

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

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

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

22           “(3) APPLICATION.—

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

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

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

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

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

14 “(B) HEARING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (3) in paragraph (5)(A)—

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

22 (B) in clause (ii)—

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

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

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

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

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

8 “(viii) who—

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

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

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

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

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

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

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

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

5 **“§ 5031. Definitions**

6 “In this chapter—

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

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

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

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

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

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

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

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

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

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

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

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

23           “(i) a criminal homicide, forcible rape  
24 or any other sex offense (as defined in sec-  
25 tion 111 of the Sex Offender Registration

1 and Notification Act (42 U.S.C. 16911));  
 2 kidnapping; aggravated assault; robbery;  
 3 burglary of an occupied structure; arson;  
 4 or a drug trafficking crime in which a fire-  
 5 arm was used; or

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

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

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

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

15 “(10) the term ‘juvenile record’—

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

20 “(B) includes—

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

25 “(ii) a social record, including—



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

1                   “(C) does not include—

2                               “(i) fingerprints; or

3                               “(ii) a DNA sample;

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

6                   “(12) the term ‘seal’ means—

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

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

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

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

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

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

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

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

4 (d) SEALING; EXPUNGEMENT.—

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

8 **“§ 5043. Sealing**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           “(2) PROCEDURES.—

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

6                   “(i) to the Attorney General; and

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

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

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

14           “(B) HEARING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13          “(vi) the disposition of the case;

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

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

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



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

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

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

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

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

24                 “(i) describes—

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

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

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

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

13          “(H) PUBLIC DEFENDER ELIGIBILITY.—

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

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

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

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

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

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

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

20 “(e) EFFECT OF SEALING ORDER.—

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

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

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

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

16 “(i) law enforcement agency; and

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

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

22 “(i) seal the record; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18           ~~“(4) PROHIBITION ON DISCLOSURE.—~~

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

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

4           “(C) EXCEPTIONS.—

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

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

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

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

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

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

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

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

17 “(I) criminal proceeding; or

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

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



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

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

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

19           “(A) the court shall—

20               “(i) vacate the order; and

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

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

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

10 **“§ 5044. Expungement**

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

13           “(1) ATTORNEY GENERAL MOTION.—

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

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

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

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

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

3 ~~“(3) AUTOMATIC NATURE OF EXPUNGEMENT.—~~

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

7 ~~“(4) NOTICE OF AUTOMATIC EXPUNGEMENT.—~~

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

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

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

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

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

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

7           “(2) PROCEDURES.—

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

13                   “(i) to the Attorney General; and

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

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

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

21           “(B) HEARING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

16           “(vi) the disposition of the case;

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

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

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

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

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

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

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

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



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

3           “(i) describes—

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

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

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

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

16           “(H) PUBLIC DEFENDER ELIGIBILITY.—

17                   “(i) PETITIONERS UNDER AGE 18.—

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

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

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

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

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

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

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

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

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

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

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

19           ~~“(i) law enforcement agency; and~~

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

22           ~~“(B) in the expungement order—~~

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

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

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

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

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

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

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

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

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

15          ~~“(4) CIVIL ACTIONS.—~~

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

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

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

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

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

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

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

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

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

7 “(i) criminal proceeding; or

8 “(ii) juvenile delinquency proceeding.

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

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

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

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

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

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

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

15 “(i) vacate the order; and

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

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

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



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

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

“5043. Sealing.  
 “5044. Expungement.”.

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

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

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

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

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

2 “(a) DEFINITIONS.—In this section—

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

4 “(A) a juvenile who—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 “(i) the covered juvenile shall be  
 24 transferred to another juvenile facility or  
 25 internal location where services can be pro-



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

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

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

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

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

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

20                   “(ii) a Federal criminal proceeding;

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

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

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

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

9                   “(I) investigative purposes; or

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

12           ~~“(2) INCOMPLETE OR INACCURATE RECORDS.—~~

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

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

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



1 “(B) INCOMPLETE RECORD.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12          “(E) CERTAIN EXCHANGES PROHIBITED.—

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

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

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

1                   “(III) to the extent the record is  
2                   not clearly an arrest or a disposition  
3                   of an arrest.

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

8                   “(I) law enforcement employ-  
9                   ment; or

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

12                   “(aa) national security posi-  
13                   tion; or

14                   “(bb) high-risk, public trust  
15                   position.

16                  “(4) FEES.—The Attorney General may collect  
17                  a reasonable fee for an exchange of records for em-  
18                  ployment-related purposes through the records sys-  
19                  tem created under this section to defray the costs  
20                  associated with exchanges for those purposes, includ-  
21                  ing any costs associated with the investigation of in-  
22                  accurate or incomplete records.”.

23                  (b) REGULATIONS ON REASONABLE PROCEDURES.—  
24                  Not later than 1 year after the date of enactment of this  
25                  Act, the Attorney General shall issue regulations to carry

1 out section 534(g) of title 28, United States Code, as  
2 added by subsection (a).

3 (c) REPORT.—

4 (1) DEFINITION.—In this subsection, the term  
5 “record” has the meaning given the term in sub-  
6 section (g) of section 534 of title 28, United States  
7 Code, as added by subsection (a).

8 (2) REPORT REQUIRED.—Not later than 2  
9 years after the date of enactment of this Act, the  
10 Attorney General shall submit to Congress a report  
11 on the implementation of subsection (g) of section  
12 534 of title 28, United States Code, as added by  
13 subsection (a), that includes—

14 (A) the number of exchanges of records for  
15 employment-related purposes made with entities  
16 in each State through the records system cre-  
17 ated under such section 534;

18 (B) any prolonged failure of a Federal  
19 agency to comply with a request by the Attor-  
20 ney General for information about dispositions  
21 of arrests; and

22 (C) the numbers of successful and unsuc-  
23 cessful challenges to the accuracy and complete-  
24 ness of records, organized by the Federal agen-  
25 cy from which each record originated.

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the*  
 3 *“Sentencing Reform and Corrections Act of 2015”.*

4 (b) *TABLE OF CONTENTS.*—*The table of contents for*  
 5 *this Act is as follows:*

*Sec. 1. Short title; table of contents.*

*TITLE I—SENTENCING REFORM*

*Sec. 101. Reduce and restrict enhanced sentencing for prior drug felonies.*

*Sec. 102. Broadening of existing safety valve.*

*Sec. 103. Limitation on application of the 10-year mandatory minimum.*

*Sec. 104. Clarification of section 924(c) of title 18, United States Code.*

*Sec. 105. Amendment to certain penalties for certain firearm offenses and armed career criminal provision.*

*Sec. 106. Application of Fair Sentencing Act.*

*Sec. 107. Mandatory minimum sentences for domestic violence offenses.*

*Sec. 108. Minimum term of imprisonment for certain acts relating to the provision of controlled goods or services to terrorists or proliferators of weapons of mass destruction.*

*Sec. 109. Inventory of Federal criminal offenses.*

*TITLE II—CORRECTIONS ACT*

*Sec. 201. Short title.*

*Sec. 202. Recidivism reduction programming and productive activities.*

*Sec. 203. Post-sentencing risk and needs assessment system.*

*Sec. 204. Prerelease custody.*

*Sec. 205. Reports.*

*Sec. 206. Additional tools to promote recovery and prevent drug and alcohol abuse and dependence.*

*Sec. 207. Eric Williams Correctional Officer Protection Act.*

*Sec. 208. Promoting successful reentry.*

*Sec. 209. Parole for juveniles.*

*Sec. 210. Compassionate release initiative.*

*Sec. 211. Juvenile sealing and expungement.*

*Sec. 212. Juvenile solitary confinement.*

*Sec. 213. Ensuring accuracy of Federal criminal records.*

1 **TITLE I—SENTENCING REFORM**

2 **SEC. 101. REDUCE AND RESTRICT ENHANCED SENTENCING**  
 3 **FOR PRIOR DRUG FELONIES.**

4 (a) *CONTROLLED SUBSTANCES ACT AMENDMENTS.*—  
 5 *The Controlled Substances Act (21 U.S.C. 801 et seq.) is*  
 6 *amended—*

7 (1) *in section 102 (21 U.S.C. 802), by adding at*  
 8 *the end the following:*

9 “(57) *The term ‘serious drug felony’ means an*  
 10 *offense described in section 924(e)(2)(A) of title 18,*  
 11 *United States Code, for which the offender served a*  
 12 *term of imprisonment of more than 12 months.*

13 “(58) *The term ‘serious violent felony’ means—*

14 “(A) *an offense described in section*  
 15 *3559(c)(2)(F) of title 18, United States Code, for*  
 16 *which the offender served a term of imprison-*  
 17 *ment of more than 12 months; and*

18 “(B) *any offense that would be a felony vio-*  
 19 *lation of section 113 of title 18, United States*  
 20 *Code, if the offense were committed in the special*  
 21 *maritime and territorial jurisdiction of the*  
 22 *United States, for which the offender served a*  
 23 *term of imprisonment of more than 12 months.”;*  
 24 *and*

25 (2) *in section 401(b)(1) (21 U.S.C. 841(b)(1))—*

1           (A) in subparagraph (A), in the flush text  
2 following clause (viii)—

3           (i) by striking “If any person commits  
4 such a violation after a prior conviction for  
5 a felony drug offense has become final, such  
6 person shall be sentenced to a term of im-  
7 prisonment which may not be less than 20  
8 years” and inserting the following: “If any  
9 person commits such a violation after a  
10 prior conviction for a serious drug felony or  
11 serious violent felony has become final, such  
12 person shall be sentenced to a term of im-  
13 prisonment of not less than 15 years”; and

14           (ii) by striking “after two or more  
15 prior convictions for a felony drug offense  
16 have become final, such person shall be sen-  
17 tenced to a mandatory term of life impris-  
18 onment without release” and inserting the  
19 following: “after 2 or more prior convictions  
20 for a serious drug felony or serious violent  
21 felony have become final, such person shall  
22 be sentenced to a term of imprisonment of  
23 not less than 25 years”; and

24           (B) in subparagraph (B), in the flush text  
25 following clause (viii), by striking “If any per-



1           son commits such a violation after a prior con-  
2           viction for a felony drug offense has become  
3           final” and inserting the following: “If any per-  
4           son commits such a violation after a prior con-  
5           viction for a serious drug felony or serious vio-  
6           lent felony has become final”.

7           (b) *CONTROLLED SUBSTANCES IMPORT AND EXPORT*  
8 *ACT AMENDMENTS.*—Section 1010(b) of the Controlled Sub-  
9 *stances Import and Export Act (21 U.S.C. 960(b)) is*  
10 *amended—*

11           (1) *in paragraph (1), in the flush text following*  
12 *subparagraph (H), by striking “If any person com-*  
13 *mits such a violation after a prior conviction for a*  
14 *felony drug offense has become final, such person shall*  
15 *be sentenced to a term of imprisonment of not less*  
16 *than 20 years” and inserting “If any person commits*  
17 *such a violation after a prior conviction for a serious*  
18 *drug felony or serious violent felony has become final,*  
19 *such person shall be sentenced to a term of imprison-*  
20 *ment of not less than 15 years”;* and

21           (2) *in paragraph (2), in the flush text following*  
22 *subparagraph (H), by striking “felony drug offense”*  
23 *and inserting “serious drug felony or serious violent*  
24 *felony”.*

25           (c) *APPLICABILITY TO PENDING AND PAST CASES.*—

1           (1) *PENDING CASES.*—*This section, and the*  
2 *amendments made by this section, shall apply to any*  
3 *offense that was committed before the date of enact-*  
4 *ment of this Act, if a sentence for the offense has not*  
5 *been imposed as of such date of enactment.*

6           (2) *PAST CASES.*—

7           (A) *IN GENERAL.*—*In the case of a defend-*  
8 *ant who, before the date of enactment of this Act,*  
9 *was convicted of an offense for which the penalty*  
10 *is amended by this section and was sentenced to*  
11 *a term of imprisonment for the offense, the sen-*  
12 *tencing court may, on motion of the defendant or*  
13 *the Director of the Bureau of Prisons, or on its*  
14 *own motion, upon prior notice to the Govern-*  
15 *ment, reduce the term of imprisonment for the*  
16 *offense, after considering the factors set forth in*  
17 *section 3553(a) of title 18, United States Code,*  
18 *the nature and seriousness of the danger to any*  
19 *person, the community, or any crime victims,*  
20 *and the post-sentencing conduct of the defendant,*  
21 *if such a reduction is consistent with this section*  
22 *and the amendments made by this section. Any*  
23 *proceeding under this paragraph shall be subject*  
24 *to section 3771 of title 18, United States Code*  
25 *(the Crime Victims Rights Act).*

1           (B) *REQUIREMENT.*—For each motion filed  
 2           under subparagraph (A), the Government shall  
 3           conduct a particularized inquiry of the facts and  
 4           circumstances of the original sentencing of the  
 5           defendant in order to assess whether a reduction  
 6           in sentence would be consistent with this section  
 7           and the amendments made by this section.

8 **SEC. 102. BROADENING OF EXISTING SAFETY VALVE.**

9           (a) *AMENDMENTS.*—Section 3553 of title 18, United  
 10 *States Code, is amended—*

11           (1) *in subsection (f), by striking paragraph (1)*  
 12 *and inserting the following:*

13           “(1) the defendant does not have—

14           “(A) more than 4 criminal history points,  
 15           as determined under the sentencing guidelines;

16           “(B) a prior 3-point offense, as determined  
 17           under the sentencing guidelines; and

18           “(C) a prior 2-point drug trafficking or vio-  
 19           lent offense, as determined under the sentencing  
 20           guidelines;”; and

21           (2) *by adding at the end the following:*

22           “(g) *INADEQUACY OF CRIMINAL HISTORY.*—

23           “(1) *IN GENERAL.*—If subsection (f) does not  
 24           apply to a defendant because the defendant does not  
 25           meet the requirements described in subsection (f)(1)

1       *(relating to criminal history), the court may, upon*  
2       *prior notice to the Government, waive subsection*  
3       *(f)(1) if the court specifies in writing the specific rea-*  
4       *sons why reliable information indicates that exclud-*  
5       *ing the defendant pursuant to subsection (f)(1) sub-*  
6       *stantially overrepresents the seriousness of the defend-*  
7       *ant’s criminal history or the likelihood that the de-*  
8       *fendant will commit other crimes.*

9               “(2) *PROHIBITION.—This subsection shall not*  
10       *apply to any defendant who has been convicted of a*  
11       *serious drug felony or a serious violent felony as de-*  
12       *fined in paragraphs (57) and (58), respectively, of*  
13       *section 102 of the Controlled Substances Act (21*  
14       *U.S.C. 802).*

15       “(h) *DEFINITIONS.—As used in this section—*

16               “(1) *the term ‘drug trafficking offense’ means an*  
17       *offense that is punishable by imprisonment under any*  
18       *law of the United States, or of a State or foreign*  
19       *country, that prohibits or restricts the importation,*  
20       *manufacture, or distribution of controlled substances*  
21       *or the possession of controlled substances with intent*  
22       *to distribute; and*

23               “(2) *the term ‘violent offense’ means a ‘crime of*  
24       *violence’, as defined in section 16, that is punishable*  
25       *by imprisonment.’”.*

1       (b) *APPLICABILITY.*—*The amendments made by this*  
 2 *section shall apply only to a conviction entered on or after*  
 3 *the date of enactment of this Act.*

4 **SEC. 103. LIMITATION ON APPLICATION OF THE 10-YEAR**  
 5 **MANDATORY MINIMUM.**

6       (a) *AMENDMENT.*—*Section 3553 of title 18, United*  
 7 *States Code, as amended by section 102, is amended by add-*  
 8 *ing at the end the following:*

9       “(i) *LIMITATION ON APPLICABILITY OF CERTAIN*  
 10 *STATUTORY MINIMUMS.*—*Notwithstanding any other provi-*  
 11 *sion of law, in the case of a conviction under section 401*  
 12 *or 406 of the Controlled Substances Act (21 U.S.C. 841 and*  
 13 *846) or section 1010 or 1013 of the Controlled Substances*  
 14 *Import and Export Act (21 U.S.C. 960 and 963) for which*  
 15 *the statutory minimum term of imprisonment is 10 years,*  
 16 *the court may impose a sentence as if the statutory min-*  
 17 *imum term of imprisonment was 5 years, if the court finds*  
 18 *at sentencing, after the Government has been afforded the*  
 19 *opportunity to make a recommendation, that—*

20               “(1) *the defendant does not have a prior convic-*  
 21 *tion for a serious drug felony or serious violent felony*  
 22 *as defined in paragraphs (57) and (58), respectively,*  
 23 *of section 102 of the Controlled Substances Act (21*  
 24 *U.S.C. 802) that was made final prior to the commis-*  
 25 *sion of the instant offense;*

1           “(2) the defendant did not use violence or cred-  
2           ible threats of violence or possess a firearm or other  
3           dangerous weapon (or induce another participant to  
4           do so) in connection with the offense, and the offense  
5           did not result in death or serious bodily injury to any  
6           person;

7           “(3) the defendant did not play an enhanced role  
8           in the offense by acting as an organizer, leader, man-  
9           ager, or supervisor of other participants in the of-  
10          fense, as determined under the sentencing guidelines,  
11          or by exercising substantial authority or control over  
12          the criminal activity of a criminal organization, re-  
13          gardless of whether the defendant was a member of  
14          such organization;

15          “(4) the defendant did not act as an importer,  
16          exporter, or high-level distributor or supplier, a  
17          wholesaler, or a manufacturer of the controlled sub-  
18          stances involved in the offense or engage in a con-  
19          tinuing criminal enterprise, as defined in section 408  
20          of the Controlled Substances Act (21 U.S.C. 848);

21          “(5) the defendant did not distribute a controlled  
22          substance to or with a person under 18 years of age;  
23          and

24          “(6) not later than the time of the sentencing  
25          hearing, the defendant has truthfully provided to the

1        *Government all information and evidence the defend-*  
2        *ant has concerning the offense or offenses that were*  
3        *part of the same course of conduct or of a common*  
4        *scheme or plan, but the fact that the defendant has no*  
5        *relevant or useful other information to provide or that*  
6        *the Government is already aware of the information*  
7        *shall not preclude a determination by the court that*  
8        *the defendant has complied with this requirement.*

9        *“(j) DEFINITIONS.—As used in subsection (i) of this*  
10       *section—*

11                *“(1) the term ‘importer, exporter, or high-level*  
12                *distributor or supplier’—*

13                        *“(A) means a defendant who imported, ex-*  
14                        *ported, or otherwise distributed or supplied large*  
15                        *quantities of a controlled substance to other drug*  
16                        *distributors; and*

17                        *“(B) does not include a defendant whose*  
18                        *role was limited to transporting drugs or money*  
19                        *at the direction of others;*

20                *“(2) the term ‘manufacturer’ means a defendant*  
21                *who grew, produced, or manufactured a controlled*  
22                *substance and was the principal owner of such con-*  
23                *trolled substance; and*

1           “(3) the term ‘wholesaler’ means a defendant  
2           who sold non-retail quantities of a controlled sub-  
3           stance to other dealers or distributors.”.

4           (b) *APPLICABILITY.*—The amendment made by this  
5           section shall apply only to a conviction entered on or after  
6           the date of enactment of this Act.

7           **SEC. 104. CLARIFICATION OF SECTION 924(c) OF TITLE 18,**

8   **UNITED STATES CODE.**

9           (a) *IN GENERAL.*—Section 924(c)(1)(C) of title 18,  
10          *United States Code, is amended—*

11                   (1) *in the matter preceding clause (i), by strik-*  
12                   *ing “second or subsequent conviction under this sub-*  
13                   *section” and inserting “violation of this subsection*  
14                   *that occurs after a prior conviction under this sub-*  
15                   *section or under State law for a crime of violence that*  
16                   *contains as an element of the offense the carrying,*  
17                   *brandishing, or use of a firearm has become final”;*  
18                   *and*

19                   (2) *in clause (i), by striking “not less than 25*  
20                   *years” and inserting “not less than 15 years”.*

21           (b) *APPLICABILITY TO PENDING AND PAST CASES.*—

22                   (1) *PENDING CASES.*—This section, and the  
23                   amendments made by this section, shall apply to any  
24                   offense that was committed before the date of enact-



1 *ment of this Act, if a sentence for the offense has not*  
2 *been imposed as of such date of enactment.*

3 (2) *PAST CASES.—*

4 (A) *IN GENERAL.—In the case of a defend-*  
5 *ant who, before the date of enactment of this Act,*  
6 *was convicted of an offense for which the penalty*  
7 *is amended by this section and was sentenced to*  
8 *a term of imprisonment for the offense, the sen-*  
9 *tencing court may, on motion of the defendant or*  
10 *the Director of the Bureau of Prisons, or on its*  
11 *own motion, upon prior notice to the Govern-*  
12 *ment, reduce the term of imprisonment for the*  
13 *offense, after considering the factors set forth in*  
14 *section 3553(a) of title 18, United States Code,*  
15 *the nature and seriousness of the danger to any*  
16 *person, the community, or any crime victims,*  
17 *and the post-sentencing conduct of the defendant,*  
18 *if such a reduction is consistent with this section*  
19 *and the amendments made by this section. Any*  
20 *proceeding under this paragraph shall be subject*  
21 *to section 3771 of title 18, United States Code*  
22 *(the Crime Victims' Rights Act).*

23 (B) *REQUIREMENT.—For each motion filed*  
24 *under subparagraph (A), the Government shall*  
25 *conduct a particularized inquiry of the facts and*

1           *circumstances of the original sentencing of the*  
 2           *defendant in order to assess whether a reduction*  
 3           *in sentence would be consistent with this section*  
 4           *and the amendments made by this section.*

5 **SEC. 105. AMENDMENT TO CERTAIN PENALTIES FOR CER-**  
 6           **TAIN FIREARM OFFENSES AND ARMED CA-**  
 7           **REER CRIMINAL PROVISION.**

8           *(a) AMENDMENTS.—Section 924 of title 18, United*  
 9           *States Code, is amended—*

10           *(1) in subsection (a)(2), by striking “not more*  
 11           *than 10 years” and inserting “not more than 15*  
 12           *years”; and*

13           *(2) in subsection (e)(1), by striking “not less*  
 14           *than fifteen years” and inserting “not less than 10*  
 15           *years”.*

16           *(b) APPLICABILITY TO PENDING AND PAST CASES.—*

17           *(1) PENDING CASES.—This section, and the*  
 18           *amendments made by this section, shall apply to any*  
 19           *offense that was committed before the date of enact-*  
 20           *ment of this Act, if a sentence for the offense has not*  
 21           *been imposed as of such date of enactment.*

22           *(2) PAST CASES.—*

23           *(A) IN GENERAL.—In the case of a defend-*  
 24           *ant who, before the date of enactment of this Act,*  
 25           *was convicted of an offense for which the penalty*

1           is amended by this section and was sentenced to  
2           a term of imprisonment for the offense, the sen-  
3           tencing court may, on motion of the defendant or  
4           the Director of the Bureau of Prisons, or on its  
5           own motion, upon prior notice to the Govern-  
6           ment, reduce the term of imprisonment for the  
7           offense, after considering the factors set forth in  
8           section 3553(a) of title 18, United States Code,  
9           the nature and seriousness of the danger to any  
10          person, the community, or any crime victims,  
11          and the post-sentencing conduct of the defendant,  
12          if such a reduction is consistent with this section  
13          and the amendments made by this section. Any  
14          proceeding under this paragraph shall be subject  
15          to section 3771 of title 18, United States Code  
16          (the Crime Victims Rights Act).

17                 (B) REQUIREMENT.—For each motion filed  
18                 under subparagraph (A), the Government shall  
19                 conduct a particularized inquiry of the facts and  
20                 circumstances of the original sentencing of the  
21                 defendant in order to assess whether a reduction  
22                 in sentence would be consistent with this section  
23                 and the amendments made by this section.

1 **SEC. 106. APPLICATION OF FAIR SENTENCING ACT.**

2 (a) *DEFINITION OF COVERED OFFENSE.*—*In this sec-*  
3 *tion, the term “covered offense” means a violation of a Fed-*  
4 *eral criminal statute, the statutory penalties for which were*  
5 *modified by section 2 or 3 of the Fair Sentencing Act of*  
6 *2010 (Public Law 111–220; 124 Stat. 2372), that was com-*  
7 *mitted before August 3, 2010.*

8 (b) *DEFENDANTS PREVIOUSLY SENTENCED.*—*A court*  
9 *that imposed a sentence for a covered offense, may, on mo-*  
10 *tion of the defendant, the Director of the Bureau of Prisons,*  
11 *the attorney for the Government, or the court, impose a re-*  
12 *duced sentence as if sections 2 and 3 of the Fair Sentencing*  
13 *Act of 2010 (Public Law 111–220; 124 Stat. 2372) were*  
14 *in effect at the time the covered offense was committed.*

15 (c) *LIMITATIONS.*—*No court shall entertain a motion*  
16 *made under this section to reduce a sentence if the sentence*  
17 *was previously imposed or previously reduced in accord-*  
18 *ance with the amendments made by sections 2 and 3 of the*  
19 *Fair Sentencing Act of 2010 (Public Law 111–220; 124*  
20 *Stat. 2372) or if a previous motion made under this section*  
21 *to reduce the sentence was, after the date of enactment of*  
22 *this Act, denied after a complete review of the motion on*  
23 *the merits. Nothing in this section shall be construed to re-*  
24 *quire a court to reduce any sentence pursuant to this sec-*  
25 *tion.*

1 **SEC. 107. MANDATORY MINIMUM SENTENCES FOR DOMES-**  
2 **TIC VIOLENCE OFFENSES.**

3 *Section 2261(b) of title 18, United States Code, is*  
4 *amended by striking paragraphs (1), (2), and (3) and in-*  
5 *serting the following:*

6 *“(1) if death of the victim results—*

7 *“(A) in the case of a violation of this sec-*  
8 *tion, for any term of years not less than 10 or*  
9 *for life; and*

10 *“(B) in the case of a violation of section*  
11 *2261A, for life or any term of years;*

12 *“(2) if permanent disfigurement or life threat-*  
13 *ening bodily injury to the victim results—*

14 *“(A) in the case of a violation of this sec-*  
15 *tion, for not more than 25 years; and*

16 *“(B) in the case of a violation of section*  
17 *2261A, for not more than 20 years;*

18 *“(3) if serious bodily injury to the victim results*  
19 *or if the offender uses a dangerous weapon during the*  
20 *offense—*

21 *“(A) in the case of a violation of this sec-*  
22 *tion, for not more than 15 years; and*

23 *“(B) in the case of a violation of section*  
24 *2261A, for not more than 10 years;”.*

1 **SEC. 108. MINIMUM TERM OF IMPRISONMENT FOR CERTAIN**  
 2 **ACTS RELATING TO THE PROVISION OF CON-**  
 3 **TROLLED GOODS OR SERVICES TO TERROR-**  
 4 **ISTS OR PROLIFERATORS OF WEAPONS OF**  
 5 **MASS DESTRUCTION.**

6 *Section 206 of the International Emergency Economic*  
 7 *Powers Act (50 U.S.C. 1705) is amended—*

8 *(1) in subsection (c), by striking “A person” and*  
 9 *inserting “Subject to subsection (d), a person”; and*

10 *(2) by adding at the end the following:*

11 *“(d) MINIMUM TERM OF IMPRISONMENT FOR CERTAIN*  
 12 *ACTS RELATING TO THE PROVISION OF CONTROLLED*  
 13 *GOODS OR SERVICES TO TERRORISTS OR PROLIFERATORS*  
 14 *OF WEAPONS OF MASS DESTRUCTION.—*

15 *“(1) IN GENERAL.—A person who willfully com-*  
 16 *mits, willfully attempts to commit, or willfully con-*  
 17 *spires to commit, solicits the commission of, or aids*  
 18 *or abets in the commission of, an unlawful act de-*  
 19 *scribed in paragraph (2) shall, upon conviction, be*  
 20 *imprisoned for a term of not less than 5 years. Not-*  
 21 *withstanding any other provision of law, a court shall*  
 22 *not place on probation any person sentenced under*  
 23 *this subsection.*

24 *“(2) UNLAWFUL ACTS DESCRIBED.—An unlawful*  
 25 *act described in this paragraph is an unlawful act*  
 26 *described in subsection (a) that involves—*

1           “(A) *the provision of controlled goods or*  
2 *services to or for the use of—*

3                   “(i) *a state sponsor of terrorism;*

4                   “(ii) *an organization designated as a*  
5 *foreign terrorist organization under section*  
6 *219(a) of the Immigration and Nationality*  
7 *Act (8 U.S.C. 1189(a)); or*

8                   “(iii) *a person on the list of specially*  
9 *designated nationals and blocked persons*  
10 *maintained by the Office of Foreign Assets*  
11 *Control of the Department of the Treasury;*

12           “(B) *the provision of goods or services,*  
13 *without a license or other written approval of the*  
14 *United States Government, to any person in con-*  
15 *nection with a program or effort of a foreign*  
16 *country or foreign person to develop weapons of*  
17 *mass destruction; or*

18           “(C) *the provision of defense articles or de-*  
19 *fense services, without a license or other written*  
20 *approval of the Department of State, to, or for*  
21 *the use of, a country subject to an arms embargo*  
22 *by the United States.*

23           “(3) *DEFINITIONS.—In this subsection:*

24                   “(A) *CONTROLLED GOODS OR SERVICES.—*

25           *The term ‘controlled goods or services’ means any*

1           *article, item, technical data, service, or tech-*  
2           *nology listed or included in—*

3                   “(i) *the United States Munitions List*  
4                   *maintained pursuant to part 121 of title*  
5                   *22, Code of Federal Regulations;*

6                   “(ii) *the Commerce Control List main-*  
7                   *tained pursuant to part 774 of title 15,*  
8                   *Code of Federal Regulations; or*

9                   “(iii) *any successor to the United*  
10                   *States Munitions List or the Commerce*  
11                   *Control List.*

12                   “(B) *COUNTRY SUBJECT TO AN ARMS EM-*  
13                   *BARGO.—The term ‘country subject to an arms*  
14                   *embargo’ means any foreign country listed in*  
15                   *section 126.1 of title 22, Code of Federal Regula-*  
16                   *tions (or any corresponding similar regulation*  
17                   *or ruling), for which—*

18                   “(i) *an embargo or prohibition exists*  
19                   *on the export of defense articles or defense*  
20                   *services; or*

21                   “(ii) *the policy of the United States is*  
22                   *to deny licenses and other approvals for the*  
23                   *export of defense articles and defense serv-*  
24                   *ices.*



1           “(C) *DEFENSE ARTICLE; DEFENSE SERV-*  
2           *ICE.—The terms ‘defense article’ and ‘defense*  
3           *service’ have the meanings given those terms in*  
4           *section 47 of the Arms Export Control Act (22*  
5           *U.S.C. 2794).*

6           “(D) *STATE SPONSOR OF TERRORISM.—The*  
7           *term ‘state sponsor of terrorism’ means any for-*  
8           *ign country, or political subdivision, agency, or*  
9           *instrumentality of a foreign country, if the Sec-*  
10           *retary of State has determined that the govern-*  
11           *ment of the country has repeatedly provided sup-*  
12           *port for acts of international terrorism pursuant*  
13           *to—*

14                   “(i) *section 6(j)(1)(A) of the Export*  
15                   *Administration Act of 1979 (50 U.S.C.*  
16                   *App. 2405(j)(1)(A)) (as in effect pursuant*  
17                   *to this Act);*

18                   “(ii) *section 40(d) of the Arms Export*  
19                   *Control Act (22 U.S.C. 2780(d));*

20                   “(iii) *section 620A(a) of the Foreign*  
21                   *Assistance Act of 1961 (22 U.S.C. 2371(a));*

22                   *or*

23                   “(iv) *any other provision of law.*

24           “(E) *WEAPON OF MASS DESTRUCTION.—*  
25           *The term ‘weapon of mass destruction’ has the*

1           *meaning given that term in section 2332a of title*  
 2           *18, United States Code.”.*

3 **SEC. 109. INVENTORY OF FEDERAL CRIMINAL OFFENSES.**

4           *(a) DEFINITIONS.—In this section—*

5                   *(1) the term “criminal regulatory offense” means*  
 6                   *a Federal regulation that is enforceable by a criminal*  
 7                   *penalty;*

8                   *(2) the term “criminal statutory offense” means*  
 9                   *a criminal offense under a Federal statute; and*

10                  *(3) the term “Executive agency”—*

11                           *(A) has the meaning given the term in sec-*  
 12                           *tion 105 of title 5, United States Code; and*

13                           *(B) includes the United States Postal Serv-*  
 14                           *ice and the Postal Regulatory Commission.*

15           *(b) REPORT ON CRIMINAL STATUTORY OFFENSES.—*

16 *Not later than 1 year after the date of enactment of this*  
 17 *Act, the Attorney General shall submit to the Committee*  
 18 *on the Judiciary of the Senate and the Committee on the*  
 19 *Judiciary of the House of Representatives a report, which*  
 20 *shall include—*

21                   *(1) a list of all criminal statutory offenses, in-*  
 22                   *cluding a list of the elements for each criminal statu-*  
 23                   *tory offense; and*

24                   *(2) for each criminal statutory offense listed*  
 25                   *under paragraph (1)—*

1           (A) *the potential criminal penalty for the*  
2 *criminal statutory offense;*

3           (B) *the number of violations of the criminal*  
4 *statutory offense referred to the Department of*  
5 *Justice by an Executive agency for prosecution*  
6 *in each of the years during the 15-year period*  
7 *preceding the date of enactment of this Act;*

8           (C) *the number of prosecutions for the*  
9 *criminal statutory offense brought by the Depart-*  
10 *ment of Justice each year for the 15-year period*  
11 *preceding the date of enactment of this Act;*

12           (D) *the number of prosecutions for the*  
13 *criminal statutory offense brought by the Depart-*  
14 *ment of Justice that have resulted in conviction*  
15 *for each year of the 15-year period preceding the*  
16 *date of enactment of this Act;*

17           (E) *the number of convictions for the crimi-*  
18 *nal statutory offense that have resulted in im-*  
19 *prisonment for each year of the 15-year period*  
20 *preceding the date of enactment of this Act;*

21           (F) *the average length of sentence of impris-*  
22 *onment imposed as a result of conviction for the*  
23 *criminal statutory offense during each year of*  
24 *the 15-year period preceding the date of enact-*  
25 *ment of this Act;*

1           (G) the mens rea requirement for the crimi-  
2           nal statutory offense; and

3           (H) the number of prosecutions for the  
4           criminal statutory offense in which the Depart-  
5           ment of Justice was not required to prove mens  
6           rea as a component of the offense.

7           (c) *REPORT ON CRIMINAL REGULATORY OFFENSES.*—  
8           Not later than 1 year after the date of enactment of this  
9           Act, the head of each Executive agency shall submit to the  
10          Committee on the Judiciary of the Senate and the Com-  
11          mittee on the Judiciary of the House of Representatives a  
12          report, which shall include—

13           (1) a list of all criminal regulatory offenses en-  
14          forceable by the agency; and

15           (2) for each criminal regulatory offense listed  
16          under paragraph (1)—

17           (A) the potential criminal penalty for a vio-  
18          lation of the criminal regulatory offense;

19           (B) the number of violations of the criminal  
20          regulatory offense referred to the Department of  
21          Justice for prosecution in each of the years dur-  
22          ing the 15-year period preceding the date of en-  
23          actment of this Act;

24           (C) the number of prosecutions for the  
25          criminal regulatory offense brought by the De-

1            *partment of Justice each year for the 15-year pe-*  
2            *riod preceding the date of enactment of this Act;*

3            *(D) the number of prosecutions for the*  
4            *criminal regulatory offense brought by the De-*  
5            *partment of Justice that have resulted in convic-*  
6            *tion for each year of the 15-year period pre-*  
7            *ceding the date of enactment of this Act;*

8            *(E) the number of convictions for the crimi-*  
9            *nal regulatory offense that have resulted in im-*  
10           *prisonment for each year of the 15-year period*  
11           *preceding the date of enactment of this Act;*

12           *(F) the average length of sentence of impris-*  
13           *onment imposed as a result of conviction for the*  
14           *criminal regulatory offense during each year of*  
15           *the 15-year period preceding the date of enact-*  
16           *ment of this Act;*

17           *(G) the mens rea requirement for the crimi-*  
18           *nal regulatory offense; and*

19           *(H) the number of prosecutions for the*  
20           *criminal regulatory offense in which the Depart-*  
21           *ment of Justice was not required to prove mens*  
22           *rea as a component of the offense.*

23           *(d) INDEX.—Not later than 2 years after the date of*  
24           *enactment of this Act—*

1           (1) *the Attorney General shall establish a pub-*  
 2           *lically accessible index of each criminal statutory of-*  
 3           *fense listed in the report required under subsection (b)*  
 4           *and make the index available and freely accessible on*  
 5           *the website of the Department of Justice; and*

6           (2) *the head of each Executive agency shall estab-*  
 7           *lish a publically accessible index of each criminal reg-*  
 8           *ulatory offense listed in the report required under*  
 9           *subsection (c) and make the index available and freely*  
 10          *accessible on the website of the agency.*

11          (e) *RULE OF CONSTRUCTION.—Nothing in this section*  
 12          *shall be construed to require or authorize appropriations.*

## 13           **TITLE II—CORRECTIONS ACT**

### 14          **SEC. 201. SHORT TITLE.**

15           *This title may be cited as the “Corrections Oversight,*  
 16           *Recidivism Reduction, and Eliminating Costs for Tax-*  
 17           *payers In Our National System Act of 2015” or the “COR-*  
 18           *RECTIONS Act”.*

### 19          **SEC. 202. RECIDIVISM REDUCTION PROGRAMMING AND** 20                            **PRODUCTIVE ACTIVITIES.**

21           (a) *IN GENERAL.—Not later than 1 year after the date*  
 22           *of enactment of this Act, the Attorney General shall—*

23                   (1) *conduct a review of recidivism reduction pro-*  
 24                   *gramming and productive activities, including prison*  
 25                   *jobs, offered in correctional institutions, including*

1       *programming and activities offered in State correc-*  
2       *tional institutions, which shall include a review of re-*  
3       *search on the effectiveness of such programs;*

4           (2) *conduct a survey to identify products, in-*  
5       *cluding products purchased by Federal agencies, that*  
6       *are currently manufactured overseas and could be*  
7       *manufactured by prisoners participating in a prison*  
8       *work program without reducing job opportunities for*  
9       *other workers in the United States; and*

10          (3) *submit to the Committee on the Judiciary*  
11       *and the Committee on Appropriations of the Senate*  
12       *and the Committee on the Judiciary and the Com-*  
13       *mittee on Appropriations of the House of Representa-*  
14       *tives a strategic plan for the expansion of recidivism*  
15       *reduction programming and productive activities, in-*  
16       *cluding prison jobs, in Bureau of Prisons facilities re-*  
17       *quired by section 3621(h)(1) of title 18, United States*  
18       *Code, as added by subsection (b).*

19       (b) *AMENDMENT.—Section 3621 of title 18, United*  
20       *States Code, is amended by adding at the end the following:*

21           “(h) *RECIDIVISM REDUCTION PROGRAMMING AND*  
22       *PRODUCTIVE ACTIVITIES.—*

23           “(1) *IN GENERAL.—The Director of the Bureau*  
24       *of Prisons, shall, subject to the availability of appro-*  
25       *priations, make available to all eligible prisoners ap-*

1       *appropriate recidivism reduction programming or pro-*  
2       *ductive activities, including prison jobs, in accord-*  
3       *ance with paragraph (2).*

4               “(2) *EXPANSION PERIOD.*—

5                       “(A) *IN GENERAL.*—*In carrying out this*  
6                       *subsection, the Director of the Bureau of Prisons*  
7                       *shall have 6 years beginning on the date of en-*  
8                       *actment of this subsection to ensure appropriate*  
9                       *recidivism reduction programming and produc-*  
10                      *tive activities, including prison jobs, are avail-*  
11                      *able for all eligible prisoners.*

12               “(B) *CERTIFICATION.*—

13                      “(i) *IN GENERAL.*—*The National Insti-*  
14                      *tute of Corrections shall evaluate all recidi-*  
15                      *vism reduction programming or productive*  
16                      *activities that are made available to eligible*  
17                      *prisoners and determine whether such pro-*  
18                      *gramming or activities may be certified as*  
19                      *evidence-based and effective at reducing or*  
20                      *mitigating offender risk and recidivism.*

21                      “(ii) *CONSIDERATIONS.*—*In deter-*  
22                      *mining whether or not to issue a certifi-*  
23                      *cation under clause (i), the National Insti-*  
24                      *tute of Corrections shall consult with inter-*  
25                      *nal or external program evaluation experts,*



1           *including the Office of Management and*  
2           *Budget and the Comptroller General of the*  
3           *United States to identify appropriate eval-*  
4           *uation methodologies for each type of pro-*  
5           *gram offered, and may use analyses of simi-*  
6           *lar programs conducted in other correc-*  
7           *tional settings.*

8           “(3) *RECIDIVISM REDUCTION PARTNERSHIPS.*—

9           *Not later than 18 months after the date of enactment*  
10          *of this subsection, the Attorney General shall issue*  
11          *regulations requiring the official in charge of each*  
12          *correctional facility to ensure, subject to the avail-*  
13          *ability of appropriations, that appropriate recidivism*  
14          *reduction programming and productive activities, in-*  
15          *cluding prison jobs, are available for all eligible pris-*  
16          *oners within the time period specified in paragraph*  
17          *(2), by entering into partnerships with the following:*

18                “(A) *Nonprofit and other private organiza-*  
19                *tions, including faith-based and community-*  
20                *based organizations, that provide recidivism re-*  
21                *duction programming, on a paid or volunteer*  
22                *basis.*

23                “(B) *Educational institutions that will de-*  
24                *liver academic classes in Bureau of Prisons fa-*  
25                *cilities, on a paid or volunteer basis.*

1           “(C) *Private entities that will, on a volun-*  
2           *teer basis—*

3                   “(i) *deliver occupational and voca-*  
4                   *tional training and certifications in Bureau*  
5                   *of Prisons facilities;*

6                   “(ii) *provide equipment to facilitate*  
7                   *occupational and vocational training or*  
8                   *employment opportunities for prisoners;*

9                   “(iii) *employ prisoners; or*

10                   “(iv) *assist prisoners in prerelease cus-*  
11                   *tody or supervised release in finding em-*  
12                   *ployment.*

13           “(D) *Industry-sponsored organizations that*  
14           *deliver workforce development and training that*  
15           *lead to recognized certification and employment.*

16           “(4) *ASSIGNMENTS.—In assigning prisoners to*  
17           *recidivism reduction programming and productive*  
18           *activities, the Director of the Bureau of Prisons shall*  
19           *use the Post-Sentencing Risk and Needs Assessment*  
20           *System described in section 3621A and shall ensure*  
21           *that—*

22                   “(A) *to the extent practicable, prisoners are*  
23                   *separated from prisoners of other risk classifica-*  
24                   *tions in accordance with best practices for effec-*  
25                   *tive recidivism reduction;*

1           “(B) a prisoner who has been classified as  
2           low risk and without need for recidivism reduc-  
3           tion programming shall participate in and suc-  
4           cessfully complete productive activities, including  
5           prison jobs, in order to maintain a low-risk clas-  
6           sification;

7           “(C) a prisoner who has successfully com-  
8           pleted all recidivism reduction programming to  
9           which the prisoner was assigned shall partici-  
10          pate in productive activities, including a prison  
11          job; and

12          “(D) to the extent practicable, each eligible  
13          prisoner shall participate in and successfully  
14          complete recidivism reduction programming or  
15          productive activities, including prison jobs,  
16          throughout the entire term of incarceration of the  
17          prisoner.

18          “(5) MENTORING SERVICES.—Any person who  
19          provided mentoring services to a prisoner while the  
20          prisoner was in a penal or correctional facility of the  
21          Bureau of Prisons shall be permitted to continue such  
22          services after the prisoner has been transferred into  
23          prerelease custody, unless the person in charge of the  
24          penal or correctional facility of the Bureau of Prisons  
25          demonstrates, in a written document submitted to the

1        *person, that such services would be a significant secu-*  
2        *rity risk to the prisoner, persons who provide such*  
3        *services, or any other person.*

4            *“(6) RECIDIVISM REDUCTION PROGRAM INCEN-*  
5        *TIVES AND REWARDS.—Prisoners who have success-*  
6        *fully completed recidivism reduction programs and*  
7        *productive activities shall be eligible for the following:*

8            *“(A) TIME CREDITS.—*

9            *“(i) IN GENERAL.—Subject to clauses*  
10        *(ii) and (iii), a prisoner who has success-*  
11        *fully completed a recidivism reduction pro-*  
12        *gram or productive activity that has been*  
13        *certified under paragraph (2)(B) shall re-*  
14        *ceive time credits of 5 days for each period*  
15        *of 30 days of successful completion of such*  
16        *program or activity. A prisoner who is clas-*  
17        *sified as low risk shall receive additional*  
18        *time credits of 5 days for each period of 30*  
19        *days of successful completion of such pro-*  
20        *gram or activity.*

21            *“(ii) AVAILABILITY.—A prisoner may*  
22        *not receive time credits under this subpara-*  
23        *graph for successfully completing a recidi-*  
24        *visism reduction program or productive ac-*  
25        *tivity—*

1                   “(I) before the date of enactment  
2                   of this subsection; or

3                   “(II) during official detention be-  
4                   fore the date on which the prisoner’s  
5                   sentence commences under section  
6                   3585(a).

7                   “(iii) *EXCLUSIONS.*—No credit shall be  
8                   awarded under this subparagraph to a pris-  
9                   oner serving a sentence for a second or sub-  
10                  sequent conviction for a Federal offense im-  
11                  posed after the date on which the prisoner’s  
12                  first such conviction became final, which  
13                  shall not include any offense under section  
14                  1152 or section 1153 for which the prisoner  
15                  was sentenced to less than 13 months. No  
16                  credit shall be awarded under this subpara-  
17                  graph to a prisoner with 13 or more crimi-  
18                  nal history points, as determined under the  
19                  sentencing guidelines, at the time of sen-  
20                  tencing, unless the court determines in writ-  
21                  ing at sentencing that the defendant’s  
22                  criminal history category substantially  
23                  overrepresents the seriousness of the defend-  
24                  ant’s criminal history or the likelihood that  
25                  the defendant will commit other crimes and

1           *exercises its authority to lower the defend-*  
2           *ant's criminal history category. No credit*  
3           *shall be awarded under this subparagraph*  
4           *to any prisoner serving a sentence of im-*  
5           *prisonment for conviction for any of the fol-*  
6           *lowing offenses:*

7                   “(I) *A Federal crime of terrorism,*  
8                   *as defined under section 2332b(g)(5).*

9                   “(II) *A Federal crime of violence,*  
10                   *as defined under section 16.*

11                   “(III) *A Federal sex offense, as*  
12                   *described in section 111 of the Sex Of-*  
13                   *fender Registration and Notification*  
14                   *Act (42 U.S.C. 16911).*

15                   “(IV) *Engaging in a continuing*  
16                   *criminal enterprise, as defined in sec-*  
17                   *tion 408 of the Controlled Substances*  
18                   *Act (21 U.S.C. 848).*

19                   “(V) *A Federal fraud offense for*  
20                   *which the prisoner received a sentence*  
21                   *of imprisonment of more than 15*  
22                   *years.*

23                   “(VI) *A Federal crime involving*  
24                   *child exploitation, as defined in section*

1                   2 of the *PROTECT Our Children Act*  
2 of 2008 (42 U.S.C. 17601).

3                   “(VII) A violation of—

4                    “(aa) chapter 11 (relating to  
5 bribery, graft, and conflicts of in-  
6 terest);

7                    “(bb) chapter 29 (relating to  
8 elections and political activities);

9                    “(cc) section 1028A, 1031, or  
10 1040 (relating to fraud);

11                   “(dd) chapter 63 involving a  
12 scheme or artifice to deprive an-  
13 other of the intangible right of  
14 honest services;

15                   “(ee) chapter 73 (relating to  
16 obstruction of justice);

17                   “(ff) chapter 95 or 96 (relat-  
18 ing to racketeering and racketeer  
19 influenced and corrupt organiza-  
20 tions); or

21                   “(gg) chapter 110 (relating  
22 to sexual exploitation and other  
23 abuse of children).

24                   “(iv) IDENTIFICATION OF COVERED OF-  
25 FENSES.—Not later than 1 year after the

1           *date of enactment of this subsection, the*  
2           *United States Sentencing Commission shall*  
3           *prepare and submit to the Director of the*  
4           *Bureau of Prisons a list of all Federal of-*  
5           *fenses described in subclauses (I) through*  
6           *(VII) of clause (iii), and shall update such*  
7           *list on an annual basis.*

8           “(B) *OTHER INCENTIVES.*—*The Bureau of*  
9           *Prisons shall develop policies to provide appro-*  
10          *priate incentives for successful completion of re-*  
11          *cidivism reduction programming and productive*  
12          *activities, other than time credit pursuant to*  
13          *subparagraph (A), including incentives for pris-*  
14          *oners who are precluded from earning credit*  
15          *under subparagraph (A)(iii). Such incentives*  
16          *may include additional telephone or visitation*  
17          *privileges for use with family, close friends, men-*  
18          *tors, and religious leaders.*

19          “(C) *PENALTIES.*—*The Bureau of Prisons*  
20          *may reduce rewards a prisoner has previously*  
21          *earned under subparagraph (A) for prisoners*  
22          *who violate the rules of the penal or correctional*  
23          *facility in which the prisoner is imprisoned, a*  
24          *recidivism reduction program, or a productive*  
25          *activity.*



1           “(D) *RELATION TO OTHER INCENTIVE PRO-*  
2           *GRAMS.—The incentives described in this para-*  
3           *graph shall be in addition to any other rewards*  
4           *or incentives for which a prisoner may be eligi-*  
5           *ble, except that a prisoner shall not be eligible for*  
6           *the time credits described in subparagraph (A) if*  
7           *the prisoner has accrued time credits under an-*  
8           *other provision of law based solely upon partici-*  
9           *ipation in, or successful completion of, such pro-*  
10          *gram.*

11          “(7) *SUCCESSFUL COMPLETION.—For purposes*  
12          *of this subsection, a prisoner—*

13                 “(A) *shall be considered to have successfully*  
14                 *completed a recidivism reduction program or*  
15                 *productive activity, if the Bureau of Prisons de-*  
16                 *termines that the prisoner—*

17                         “(i) *regularly attended and partici-*  
18                         *ipated in the recidivism reduction program*  
19                         *or productive activity;*

20                         “(ii) *regularly completed assignments*  
21                         *or tasks in a manner that allowed the pris-*  
22                         *oner to realize the criminogenic benefits of*  
23                         *the recidivism reduction program or pro-*  
24                         *ductive activity;*

1           “(iii) did not regularly engage in dis-  
2           ruptive behavior that seriously undermined  
3           the administration of the recidivism reduc-  
4           tion program or productive activity; and

5           “(iv) satisfied the requirements of  
6           clauses (i) through (iii) for a time period  
7           that is not less than 30 days and allowed  
8           the prisoner to realize the criminogenic ben-  
9           efits of the recidivism reduction program or  
10          productive activity; and

11          “(B) for purposes of paragraph (6)(A), may  
12          be given credit for successful completion of a re-  
13          cidivism reduction program or productive activ-  
14          ity for the time period during which the prisoner  
15          participated in such program or activity if the  
16          prisoner satisfied the requirements of subpara-  
17          graph (A) during such time period, notwith-  
18          standing that the prisoner continues to partici-  
19          pate in such program or activity.

20          “(8) DEFINITIONS.—In this subsection:

21                 “(A) ELIGIBLE PRISONER.—For purposes of  
22                 this subsection, the term ‘eligible prisoner’—

23                         “(i) means a prisoner serving a sen-  
24                         tence of incarceration for conviction of a  
25                         Federal offense; and

1           “(i) does not include any prisoner  
2           who the Bureau of Prisons determines—

3                   “(I) is medically unable to suc-  
4                   cessfully complete recidivism reduction  
5                   programming or productive activities;

6                   “(II) would present a security  
7                   risk if permitted to participate in re-  
8                   cidivism reduction programming; or

9                   “(III) is serving a sentence of in-  
10                  carceration of less than 1 month.

11               “(B) *PRODUCTIVE ACTIVITY*.—The term  
12               ‘productive activity’—

13                   “(i) means a group or individual ac-  
14                   tivity, including holding a job as part of a  
15                   prison work program, that is designed to  
16                   allow prisoners classified as having a lower  
17                   risk of recidivism to maintain such classi-  
18                   fication, when offered to such prisoners; and

19                   “(ii) may include the delivery of the  
20                   activities described in subparagraph  
21                   (C)(i)(II) to other prisoners.

22               “(C) *RECIDIVISM REDUCTION PROGRAM*.—  
23               The term ‘recidivism reduction program’  
24               means—

1                   “(i) a group or individual activity  
2                   that—

3                   “(I) has been certified to reduce  
4                   recidivism or promote successful re-  
5                   entry; and

6                   “(II) may include—

7                   “(aa) classes on social learn-  
8                   ing and life skills;

9                   “(bb) classes on morals or  
10                  ethics;

11                  “(cc) academic classes;

12                  “(dd) cognitive behavioral  
13                  treatment;

14                  “(ee) mentoring;

15                  “(ff) occupational and voca-  
16                  tional training;

17                  “(gg) faith-based classes or  
18                  services;

19                  “(hh) domestic violence edu-  
20                  cation and deterrence program-  
21                  ming;

22                  “(ii) victim-impact classes or  
23                  other restorative justice programs;

1                   “(jj)       *industry-sponsored*  
2                   *workforce development, education,*  
3                   *or training; and*

4                   “(kk) *a prison job; and*

5                   “(ii) *shall include—*

6                   “(I) *a productive activity; and*

7                   “(II) *recovery programming.*

8                   “(D) *RECOVERY PROGRAMMING.—The term*  
9                   *‘recovery programming’ means a course of in-*  
10                   *struction or activities, other than a course de-*  
11                   *scribed in subsection (e), that has been dem-*  
12                   *onstrated to reduce drug or alcohol abuse or de-*  
13                   *pendence among participants, or to promote re-*  
14                   *covery among individuals who have previously*  
15                   *abused alcohol or drugs, to include appropriate*  
16                   *medication-assisted treatment.”.*

17                   (c) *NO CONSIDERATION OF EARNED TIME CREDIT*  
18                   *ELIGIBILITY DURING SENTENCING.—*

19                   (1) *IN GENERAL.—Section 3553 of title 18,*  
20                   *United States Code, as amended by sections 102 and*  
21                   *103 of this Act, is amended—*

22                   (A) *by redesignating subsections (b) through*  
23                   (i) *as subsections (c) through (k), respectively;*

1           (B) in subsection (e)(3), as so redesignated,  
2           by striking “subsection (c)” and inserting “sub-  
3           section (d)”; and

4           (C) by inserting after subsection (a) the fol-  
5           lowing:

6           “(b) In imposing a sentence, the court shall not con-  
7           sider the defendant’s eligibility or potential eligibility for  
8           credit under section 3621(e), 3621(h), or 3624(b) or any  
9           similar provision of law, but shall not be prohibited from  
10          informing the defendant of the existence of such credits or  
11          related programs.”.

12           (2) *TECHNICAL AND CONFORMING AMEND-*  
13          *MENTS.—Section 3742 of title 18, United States Code,*  
14          *is amended—*

15           (A) in subsection (e)(3)—

16           (i) in subparagraph (A), by striking  
17           “section 3553(c)” and inserting “section  
18           3553(d)”;

19           (ii) in subparagraph (B)(ii), by strik-  
20           ing “section 3553(b)” and inserting “section  
21           3553(c)”;

22           (iii) in subparagraph (C), by striking  
23           “section 3553(c)” and inserting “section  
24           3553(d)”;

1           (B) in subsection (g)(2), by striking “sec-  
 2           tion 3553(c)” and inserting “section 3553(d”;  
 3           and

4           (C) in subsection (j)(1)(B), by striking “sec-  
 5           tion 3553(b)” and inserting “section 3553(c)”.

6 **SEC. 203. POST-SENTENCING RISK AND NEEDS ASSESS-**  
 7           **MENT SYSTEM.**

8           (a) *IN GENERAL.*—Subchapter C of chapter 229 of title  
 9 18, United States Code, is amended by inserting after sec-  
 10 tion 3621 the following:

11 **“§3621A. Post-sentencing risk and needs assessment**  
 12           **system**

13           “(a) *IN GENERAL.*—Not later than 30 months after the  
 14 date of the enactment of this section, the Attorney General  
 15 shall develop for use by the Bureau of Prisons an offender  
 16 risk and needs assessment system, to be known as the ‘Post-  
 17 Sentencing Risk and Needs Assessment System’ or the ‘As-  
 18 sessment System’, which shall—

19           “(1) assess and determine the recidivism risk  
 20 level of all prisoners and classify each prisoner as  
 21 having a low, moderate, or high risk of recidivism;

22           “(2) to the extent practicable, assess and deter-  
 23 mine the risk of violence of all prisoners;

1           “(3) ensure that, to the extent practicable, low-  
2           risk prisoners are grouped together in housing and as-  
3           signment decisions;

4           “(4) assign each prisoner to appropriate recidi-  
5           vism reduction programs or productive activities  
6           based on the prisoner’s risk level and the specific  
7           criminogenic needs of the prisoner, and in accordance  
8           with section 3621(h)(4);

9           “(5) reassess and update the recidivism risk level  
10          and programmatic needs of each prisoner pursuant to  
11          the schedule set forth in subsection (c)(2), and assess  
12          changes in the prisoner’s recidivism risk within a  
13          particular risk level; and

14          “(6) provide information on best practices con-  
15          cerning the tailoring of recidivism reduction pro-  
16          grams to the specific criminogenic needs of each pris-  
17          oner so as to effectively lower the prisoner’s risk of  
18          recidivating.

19          “(b) DEVELOPMENT OF SYSTEM.—

20                 “(1) IN GENERAL.—In designing the Assessment  
21                 System, the Attorney General shall—

22                         “(A) use available research and best prac-  
23                         tices in the field and consult with academic and  
24                         other criminal justice experts as appropriate;



1           “(B) ensure that the Assessment System  
2           measures indicators of progress and improve-  
3           ment, and of regression, including newly ac-  
4           quired skills, attitude, and behavior changes over  
5           time, through meaningful consideration of dy-  
6           namic risk factors, such that—

7                   “(i) all prisoners at each risk level  
8                   other than low risk have a meaningful op-  
9                   portunity to progress to a lower risk classi-  
10                  fication during the period of the incarcer-  
11                  ation of the prisoner through changes in dy-  
12                  namic risk factors; and

13                   “(ii) all prisoners on prerelease cus-  
14                   tody, other than prisoners classified as low  
15                   risk, have a meaningful opportunity to  
16                   progress to a lower risk classification dur-  
17                   ing such custody through changes in dy-  
18                   namic risk factors;

19           “(C) ensure that the Assessment System is  
20           adjusted on a regular basis, but not less fre-  
21           quently than every 3 years, to take account of the  
22           best statistical evidence of effectiveness in reduc-  
23           ing recidivism rates; and

1           “(D) ensure that the Assessment System  
2 does not result in unwarranted disparities, in-  
3 cluding by—

4           “(i) regularly evaluating rates of re-  
5 cidivism among similarly classified pris-  
6 oners to identify any unwarranted dispari-  
7 ties in such rates, including disparities  
8 among similarly classified prisoners of dif-  
9 ferent racial groups; and

10           “(ii) adjusting the Assessment System  
11 to reduce such disparities to the greatest ex-  
12 tent possible.

13           “(2) RISK AND NEEDS ASSESSMENT TOOLS.—In  
14 carrying out this subsection, the Attorney General  
15 shall—

16           “(A) develop a suitable intake assessment  
17 tool to perform the initial assessments and deter-  
18 minations described in subsection (a)(1), and to  
19 make the assignments described in paragraphs  
20 (3) and (4) of subsection (a);

21           “(B) develop a suitable reassessment tool to  
22 perform the reassessments and updates described  
23 in subsection (a)(5); and

1           “(C) develop a suitable tool to assess the re-  
2           cidivism risk level of prisoners in prerelease cus-  
3           tody.

4           “(3) *USE OF EXISTING RISK AND NEEDS ASSESS-*  
5           *MENT TOOLS PERMITTED.*—*In carrying out this sub-*  
6           *section, the Attorney General may use existing risk*  
7           *and needs assessment tools, as appropriate, for the as-*  
8           *essment tools required under paragraph (2).*

9           “(4) *USE OF PRESENTENCE REPORT.*—*In car-*  
10          *rying out this subsection, the Attorney General shall*  
11          *coordinate with the United States Probation and Pre-*  
12          *trial Services to ensure that the findings of the*  
13          *Presentence Report of each offender are available and*  
14          *considered in the Assessment System.*

15          “(5) *VALIDATION.*—*In carrying out this sub-*  
16          *section, the Attorney General shall statistically vali-*  
17          *date the risk and needs assessment tools on the Fed-*  
18          *eral prison population, or ensure that the tools have*  
19          *been so validated. To the extent such validation can-*  
20          *not be completed with the time period specified in*  
21          *subsection (a), the Attorney General shall ensure that*  
22          *such validation is completed as soon as is practicable.*

23          “(6) *RELATIONSHIP WITH EXISTING CLASSIFICA-*  
24          *TION SYSTEMS.*—*The Bureau of Prisons may incor-*  
25          *porate its existing Inmate Classification System into*

1        *the Assessment System if the Assessment System as-*  
2        *sesses the risk level and criminogenic needs of each*  
3        *prisoner and determines the appropriate security level*  
4        *institution for each prisoner. Before the development*  
5        *of the Assessment System, the Bureau of Prisons may*  
6        *use the existing Inmate Classification System, or a*  
7        *pre-existing risk and needs assessment tool that can*  
8        *be used to classify prisoners consistent with subsection*  
9        *(a)(1), or can be reasonably adapted for such purpose,*  
10       *for purposes of this section, section 3621(h), and sec-*  
11       *tion 3624(c).*

12       “(c) *RISK ASSESSMENT.*—

13                “(1) *INITIAL ASSESSMENTS.*—*Not later than 30*  
14                *months after the date on which the Attorney General*  
15                *develops the Assessment System, the Bureau of Pris-*  
16                *ons shall determine the risk level and criminogenic*  
17                *needs of each prisoner using the Assessment System.*

18                “(2) *REASSESSMENTS AND UPDATES.*—*The Bu-*  
19                *reau of Prisons shall update the assessment of each*  
20                *prisoner required under paragraph (1)—*

21                        “(A) *not less frequently than once each year*  
22                        *for any prisoner whose anticipated release date*  
23                        *is within 3 years;*

1           “(B) not less frequently than once every 2  
2           years for any prisoner whose anticipated release  
3           date is within 10 years; and

4           “(C) not less frequently than once every 3  
5           years for any other prisoner.

6           “(d) *ASSIGNMENT OF RECIDIVISM REDUCTION PRO-*  
7 *GRAMS OR PRODUCTIVE ACTIVITIES.*—*The Assessment Sys-*  
8 *tem shall provide guidance on the kind and amount of re-*  
9 *cidivism reduction programming or productive activities*  
10 *appropriate for each prisoner.*

11          “(e) *BUREAU OF PRISONS TRAINING.*—*The Attorney*  
12 *General shall develop training protocols and programs for*  
13 *Bureau of Prisons officials and employees responsible for*  
14 *administering the Assessment System. Such training proto-*  
15 *cols shall include a requirement that personnel of the Bu-*  
16 *reau of Prisons demonstrate competence in using the meth-*  
17 *odology and procedure developed under this section on a*  
18 *regular basis.*

19          “(f) *INFORMATION FROM PRESENTENCE REPORT.*—  
20 *The Attorney General shall ensure that the Bureau of Pris-*  
21 *ons uses relevant information from the Presentence Report*  
22 *of each offenders when conducting an assessment under this*  
23 *section.*

24          “(g) *QUALITY ASSURANCE.*—*In order to ensure that*  
25 *the Bureau of Prisons is using the Assessment System in*

1 *an appropriate and consistent manner, the Attorney Gen-*  
 2 *eral shall monitor and assess the use of the Assessment Sys-*  
 3 *tem and shall conduct periodic audits of the use of the As-*  
 4 *essment System at facilities of the Bureau of Prisons.*

5       “(h) *DETERMINATIONS AND CLASSIFICATIONS*  
 6 *UNREVIEWABLE.*—*Subject to any constitutional limita-*  
 7 *tions, there shall be no right of review, right of appeal, cog-*  
 8 *nizable property interest, or cause of action, either adminis-*  
 9 *trative or judicial, arising from any determination or clas-*  
 10 *sification made by any Federal agency or employee while*  
 11 *implementing or administering the Assessment System, or*  
 12 *any rules or regulations promulgated under this section.*

13       “(i) *DEFINITIONS.*—*In this section:*

14               “(1) *DYNAMIC RISK FACTOR.*—*The term ‘dy-*  
 15 *namic risk factor’ means a characteristic or attribute*  
 16 *that has been shown to be relevant to assessing risk*  
 17 *of recidivism and that can be modified based on a*  
 18 *prisoner’s actions, behaviors, or attitudes, including*  
 19 *through completion of appropriate programming or*  
 20 *other means, in a prison setting.*

21               “(2) *RECIDIVISM RISK.*—*The term ‘recidivism*  
 22 *risk’ means the likelihood that a prisoner will commit*  
 23 *additional crimes for which the prisoner could be*  
 24 *prosecuted in a Federal, State, or local court in the*  
 25 *United States.*

1           “(3) *RECIDIVISM REDUCTION PROGRAM; PRODUCTIVE ACTIVITY; RECOVERY PROGRAMMING.*—*The terms*  
 2           *‘recidivism reduction program’, ‘productive activity’,*  
 3           *and ‘recovery programming’ shall have the meaning*  
 4           *given such terms in section 3621(h)(8).”.*

6           (b) *TECHNICAL AND CONFORMING AMENDMENT.*—*The*  
 7           *table of sections for subchapter C of chapter 229 of title 18,*  
 8           *United States Code, is amended by inserting after the item*  
 9           *relating to section 3621 the following:*

          “3621A. *Post-sentencing risk and needs assessment system.*”.

10   **SEC. 204. PRERELEASE CUSTODY.**

11           (a) *IN GENERAL.*—*Section 3624(c) of title 18, United*  
 12           *States Code, is amended—*

13                   (1) *in paragraph (1), by striking the period at*  
 14                   *the end of the second sentence and inserting “or home*  
 15                   *confinement, subject to the limitation that no prisoner*  
 16                   *may serve more than 10 percent of the prisoner’s im-*  
 17                   *posed sentence in home confinement pursuant to this*  
 18                   *paragraph.”;*

19                   (2) *by striking paragraphs (2) and (3) and in-*  
 20                   *serting the following:*

21                           “(2) *CREDIT FOR RECIDIVISM REDUCTION.*—*In*  
 22                           *addition to any time spent in prerelease custody pur-*  
 23                           *suant to paragraph (1), a prisoner shall spend an ad-*  
 24                           *ditional portion of the final months of the prisoner’s*  
 25                           *sentence, equivalent to the amount of time credit the*

1 prisoner has earned pursuant to section  
2 3621(h)(6)(A), in prerelease custody, if—

3 “(A) the prisoner’s most recent risk and  
4 needs assessment, conducted within 1 year of the  
5 date on which the prisoner would first be eligible  
6 for transfer to prerelease custody pursuant to  
7 paragraph (1) and this paragraph, reflects that  
8 the prisoner is classified as low or moderate risk;  
9 and

10 “(B) for a prisoner classified as moderate  
11 risk, the prisoner’s most recent risk and needs  
12 assessment reflects that the prisoner’s risk of re-  
13 cidivism has declined during the period of the  
14 prisoner’s incarceration.

15 “(3) TYPES OF PRERELEASE CUSTODY.—A pris-  
16 oner eligible to serve a portion of the prisoner’s sen-  
17 tence in prerelease custody pursuant to paragraph (2)  
18 may serve such portion in a residential reentry cen-  
19 ter, on home confinement, or, subject to paragraph  
20 (5), on community supervision.”;

21 (3) by redesignating paragraphs (4) through (6)  
22 as paragraphs (9) through (11), respectively;

23 (4) by inserting the following after paragraph  
24 (3):

25 “(4) HOME CONFINEMENT.—



1           “(A) *IN GENERAL.*—Upon placement in  
2           home confinement pursuant to paragraph (2), a  
3           prisoner shall—

4                   “(i) be subject to 24-hour electronic  
5                   monitoring that enables the prompt identi-  
6                   fication of any violation of clause (ii);

7                   “(ii) remain in the prisoner’s resi-  
8                   dence, with the exception of the following  
9                   activities, subject to approval by the Direc-  
10                  tor of the Bureau of Prisons—

11                           “(I) participation in a job, job-  
12                           seeking activities, or job-related activi-  
13                           ties, including an apprenticeship;

14                           “(II) participation in recidivism  
15                           reduction programming or productive  
16                           activities assigned by the Post-Sen-  
17                           tencing Risk and Needs Assessment  
18                           System, or similar activities approved  
19                           in advance by the Director of the Bu-  
20                           reau of Prisons;

21                           “(III) participation in commu-  
22                           nity service;

23                           “(IV) crime victim restoration ac-  
24                           tivities;

25                           “(V) medical treatment; or

1                   “(VI) *religious activities; and*  
2                   “(iii) *comply with such other condi-*  
3                   *tions as the Director of the Bureau of Pris-*  
4                   *ons deems appropriate.*

5                   “(B) *ALTERNATIVE MEANS OF MONI-*  
6                   *TORING.—If compliance with subparagraph*  
7                   *(A)(i) is infeasible due to technical limitations*  
8                   *or religious considerations, the Director of the*  
9                   *Bureau of Prisons may employ alternative*  
10                   *means of monitoring that are determined to be*  
11                   *as effective or more effective than electronic mon-*  
12                   *itoring.*

13                   “(C) *MODIFICATIONS.—The Director of the*  
14                   *Bureau of Prisons may modify the conditions of*  
15                   *the prisoner’s home confinement for compelling*  
16                   *reasons, if the prisoner’s record demonstrates ex-*  
17                   *emplary compliance with such conditions.*

18                   “(5) *COMMUNITY SUPERVISION.—*

19                   “(A) *TIME CREDIT LESS THAN 36*  
20                   *MONTHS.—Any prisoner described in subpara-*  
21                   *graph (D) who has earned time credit of less*  
22                   *than 36 months pursuant to section*  
23                   *3621(h)(6)(A) shall be eligible to serve no more*  
24                   *than one-half of the amount of such credit on*

1           *community supervision, if the prisoner satisfies*  
2           *the conditions set forth in subparagraph (C).*

3           “(B) *TIME CREDIT OF 36 MONTHS OR*  
4           *MORE.—Any prisoner described in subparagraph*  
5           *(D) who has earned time credit of 36 months or*  
6           *more pursuant to section 3621(h)(6)(A) shall be*  
7           *eligible to serve the amount of such credit exceed-*  
8           *ing 18 months on community supervision, if the*  
9           *prisoner satisfies the conditions set forth in sub-*  
10          *paragraph (C).*

11          “(C) *CONDITIONS OF COMMUNITY SUPER-*  
12          *VISION.—A prisoner placed on community super-*  
13          *vision shall be subject to such conditions as the*  
14          *Director of the Bureau of Prisons deems appro-*  
15          *priate. A prisoner on community supervision*  
16          *may remain on community supervision until the*  
17          *conclusion of the prisoner’s sentence of incarcer-*  
18          *ation if the prisoner—*

19                 “(i) *complies with all conditions of*  
20                 *prerelease custody;*

21                 “(ii) *remains current on any financial*  
22                 *obligations imposed as part of the prisoner’s*  
23                 *sentence, including payments of court-or-*  
24                 *dered restitution arising from the offense of*  
25                 *conviction; and*

1           “(iii) refrains from committing any  
2           State, local, or Federal offense.

3           “(D) COVERED PRISONERS.—A prisoner de-  
4           scribed in this subparagraph is a prisoner  
5           who—

6           “(i) is classified as low risk by the  
7           Post-Sentencing Risk and Needs Assessment  
8           System in the assessment conducted for pur-  
9           poses of paragraph (2); or

10          “(ii) is subsequently classified as low  
11          risk by the Post-Sentencing Risk and Needs  
12          Assessment System.

13          “(6) VIOLATIONS.—If a prisoner violates a con-  
14          dition of the prisoner’s prerelease custody, the Direc-  
15          tor of the Bureau of Prisons may revoke the prisoner’s  
16          prerelease custody and require the prisoner to serve  
17          the remainder of the prisoner’s term of incarceration,  
18          or any portion thereof, in prison, or impose addi-  
19          tional conditions on the prisoner’s prerelease custody  
20          as the Director of the Bureau of Prisons deems appro-  
21          priate. If the violation is nontechnical in nature, the  
22          Director of the Bureau of Prisons shall revoke the  
23          prisoner’s prerelease custody.

24          “(7) CREDIT FOR PRERELEASE CUSTODY.—Upon  
25          completion of a prisoner’s sentence, any term of su-

1 *pervised release imposed on the prisoner shall be re-*  
2 *duced by the amount of time the prisoner served in*  
3 *prerelease custody pursuant to paragraph (2).*

4 “(8) *AGREEMENTS WITH UNITED STATES PROBA-*  
5 *TION AND PRETRIAL SERVICES.—The Director of the*  
6 *Bureau of Prisons shall, to the greatest extent prac-*  
7 *ticable, enter into agreements with the United States*  
8 *Probation and Pretrial Services to supervise prisoners*  
9 *placed in home confinement or community super-*  
10 *vision under this subsection. Such agreements shall*  
11 *authorize United States Probation and Pretrial Serv-*  
12 *ices to exercise the authority granted to the Director*  
13 *of the Bureau of Prisons pursuant to paragraphs (4),*  
14 *(5), and (12). Such agreements shall take into ac-*  
15 *count the resource requirements of United States Pro-*  
16 *bation and Pretrial Services as a result of the trans-*  
17 *fer of Bureau of Prisons inmates to prerelease custody*  
18 *and shall provide for the transfer of monetary sums*  
19 *necessary to comply with such requirements. United*  
20 *States Probation and Pretrial Services shall, to the*  
21 *greatest extent practicable, offer assistance to any*  
22 *prisoner not under its supervision during prerelease*  
23 *custody under this subsection.”; and*

24 *(5) by inserting at the end the following:*

1           “(12) *DETERMINATION OF APPROPRIATE CONDI-*  
2           *TIONS FOR PRERELEASE CUSTODY.*—*In determining*  
3           *appropriate conditions for prerelease custody pursu-*  
4           *ant to this subsection, and in accordance with para-*  
5           *graph (5), the Director of the Bureau of Prisons shall,*  
6           *to the extent practicable, subject prisoners who dem-*  
7           *onstrate continued compliance with the requirements*  
8           *of such prerelease custody to increasingly less restric-*  
9           *tive conditions, so as to most effectively prepare such*  
10           *prisoners for reentry. No prisoner shall be transferred*  
11           *to community supervision unless the length of the*  
12           *prisoner’s eligibility for community supervision pur-*  
13           *suant to paragraph (5) is equivalent to or greater*  
14           *than the length of the prisoner’s remaining period of*  
15           *prerelease custody.*

16           “(13) *ALIENS SUBJECT TO DEPORTATION.*—*If the*  
17           *prisoner is an alien whose deportation was ordered as*  
18           *a condition of supervised release or who is subject to*  
19           *a detainer filed by Immigration and Customs En-*  
20           *forcement for the purposes of determining the alien’s*  
21           *deportability, the Director of the Bureau of Prisons*  
22           *shall, upon the prisoner’s transfer to prerelease cus-*  
23           *tody pursuant to paragraphs (1) and (2), deliver the*  
24           *prisoner to United States Immigration and Customs*

1       *Enforcement for the purpose of conducting pro-*  
2       *ceedings relating to the alien's deportation.*

3               “(14) NOTICE OF TRANSFER TO PRERELEASE  
4       CUSTODY.—

5               “(A) IN GENERAL.—*The Director of the Bu-*  
6       *reau of Prisons may not transfer a prisoner to*  
7       *prerelease custody pursuant to paragraph (2) if*  
8       *the prisoner has been sentenced to a term of in-*  
9       *carceration of more than 3 years, unless the Di-*  
10       *rector of the Bureau of Prisons provides prior*  
11       *notice to the sentencing court and the United*  
12       *States Attorney's Office for the district in which*  
13       *the prisoner was sentenced.*

14              “(B) TIME REQUIREMENT.—*The notice re-*  
15       *quired under subparagraph (A) shall be provided*  
16       *not later than 6 months before the date on which*  
17       *the prisoner is to be transferred.*

18              “(C) CONTENTS OF NOTICE.—*The notice re-*  
19       *quired under subparagraph (A) shall include the*  
20       *following information:*

21                      “(i) *The amount of credit earned pur-*  
22                      *suant to paragraph (2).*

23                      “(ii) *The anticipated date of the pris-*  
24                      *oner's transfer.*

1           “(iii) *The nature of the prisoner’s*  
2           *planned prerelease custody.*

3           “(iv) *The prisoner’s behavioral record.*

4           “(v) *The most recent risk assessment of*  
5           *the prisoner.*

6           “(D) *HEARING.—*

7           “(i) *IN GENERAL.—On motion of the*  
8           *Government, the sentencing court may con-*  
9           *duct a hearing on the prisoner’s transfer to*  
10           *prerelease custody.*

11           “(ii) *PRISONER’S PRESENCE.—The*  
12           *prisoner shall have the right to be present at*  
13           *a hearing described in clause (i), unless the*  
14           *prisoner waives such right. The requirement*  
15           *under this clause may be satisfied by the de-*  
16           *fendant appearing by video teleconference.*

17           “(iii) *MOTION.—A motion filed by the*  
18           *Government seeking a hearing—*

19           “(I) *shall set forth the basis for*  
20           *the Government’s request that the pris-*  
21           *oner’s transfer be denied or modified*  
22           *pursuant to subparagraph (E); and*

23           “(II) *shall not require the Court*  
24           *to conduct a hearing described in*  
25           *clause (i).*



1                   “(iv) *JUSTICE DEPARTMENT REVIEW*  
2                   *OF TRANSFERS TO PRERELEASE CUS-*  
3                   *TODY.—If the Department of Justice does*  
4                   *not seek a hearing under this subparagraph*  
5                   *to deny or modify a prisoner’s transfer to*  
6                   *prerelease custody, the Department of Jus-*  
7                   *tice prior to such transfer shall make a de-*  
8                   *termination to that effect in writing, in-*  
9                   *cluding the reasons for that determination.*

10                   “(E) *DETERMINATION OF THE COURT.—The*  
11                   *court may deny the transfer of the prisoner to*  
12                   *prerelease custody or modify the terms of such*  
13                   *transfer, if, after conducting a hearing pursuant*  
14                   *to subparagraph (D), the court finds in writing,*  
15                   *by a preponderance of the evidence, that the*  
16                   *transfer of the prisoner is inconsistent with the*  
17                   *factors specified in paragraphs (2), (6), and (7)*  
18                   *of section 3553(a).”.*

19                   “(b) *EFFECTIVE DATE.—The amendments made by this*  
20                   *section shall take effect 1 year after the date of enactment*  
21                   *of this Act.*

22                   **SEC. 205. REPORTS.**

23                   “(a) *ANNUAL REPORTS.—*

24                   (1) *REPORTS.—Not later than 1 year after the*  
25                   *date of enactment of this Act, and every year there-*

1       *after, the Attorney General, in coordination with the*  
2       *Comptroller General of the United States, shall sub-*  
3       *mit to the appropriate committees of Congress a re-*  
4       *port that contains the following:*

5               *(A) A summary of the activities and accom-*  
6               *plishments of the Attorney General in carrying*  
7               *out this title and the amendments made by this*  
8               *title.*

9               *(B) An assessment of the status and use of*  
10              *the Post-Sentencing Risk and Needs Assessment*  
11              *System by the Bureau of Prisons, including the*  
12              *number of prisoners classified at each risk level*  
13              *under the Post-Sentencing Risk and Needs As-*  
14              *essment System at each facility of the Bureau*  
15              *of Prisons.*

16              *(C) A summary and assessment of the types*  
17              *and effectiveness of the recidivism reduction pro-*  
18              *grams and productive activities in facilities op-*  
19              *erated by the Bureau of Prisons, including—*

20                      *(i) evidence about which programs and*  
21                      *activities have been shown to reduce recidi-*  
22                      *vism;*

23                      *(ii) the capacity of each program and*  
24                      *activity at each facility, including the num-*  
25                      *ber of prisoners along with the risk level of*

1           *each prisoner enrolled in each program and*  
2           *activity; and*

3                   *(iii) identification of any problems or*  
4           *shortages in capacity of such programs and*  
5           *activities, and how these should be rem-*  
6           *edied.*

7           *(D) An assessment of budgetary savings re-*  
8           *sulting from this title and the amendments made*  
9           *by this title, to include—*

10                   *(i) a summary of the amount of sav-*  
11           *ings resulting from the transfer of prisoners*  
12           *into prerelease custody under this title and*  
13           *the amendments made by this title, includ-*  
14           *ing savings resulting from the avoidance or*  
15           *deferral of future construction, acquisition,*  
16           *or operations costs;*

17                   *(ii) a summary of the amount of sav-*  
18           *ings resulting from any decrease in recidi-*  
19           *vism that may be attributed to the imple-*  
20           *mentation of the Post-Sentencing Risk and*  
21           *Needs Assessment System or the increase in*  
22           *recidivism reduction programs and produc-*  
23           *tive activities required by this title and the*  
24           *amendments made by this title; and*

1                   (iii) a strategy to reinvest such savings  
2                   into other Federal, State, and local law en-  
3                   forcement activities and expansions of re-  
4                   cidivism reduction programs and produc-  
5                   tive activities in the Bureau of Prisons.

6                   (2) REINVESTMENT OF SAVINGS TO FUND PUBLIC  
7                   SAFETY PROGRAMMING.—

8                   (A) IN GENERAL.—Beginning in the first  
9                   fiscal year after the first report is submitted  
10                  under paragraph (1), and every fiscal year there-  
11                  after, the Attorney General shall—

12                  (i) determine the covered amount for  
13                  the previous fiscal year in accordance with  
14                  subparagraph (B); and

15                  (ii) use an amount of funds appro-  
16                  priated to the Department of Justice that is  
17                  not less than 90 percent of the covered  
18                  amount for the purposes described in sub-  
19                  paragraph (C).

20                  (B) COVERED AMOUNT.—For purposes of  
21                  this paragraph, the term “covered amount”  
22                  means, using the most recent report submitted  
23                  under paragraph (1), the amount equal to the  
24                  sum of the amount described in paragraph  
25                  (1)(D)(i) for the fiscal year and the amount de-

1           scribed in paragraph (1)(D)(ii) for the fiscal  
2           year.

3           (C) *USE OF FUNDS.*—The funds described  
4           in subparagraph (A)(ii) shall be used, consistent  
5           with paragraph (1)(D)(iii), to achieve each of  
6           the following objectives:

7                   (i) *Ensure that, not later than 6 years*  
8                   *after the date of enactment of this Act, re-*  
9                   *cidivism reduction programs or productive*  
10                  *activities are available to all eligible pris-*  
11                  *oners.*

12                  (ii) *Ensure compliance with the re-*  
13                  *source needs of United States Probation and*  
14                  *Pretrial Services resulting from an agree-*  
15                  *ment under section 3624(c)(8) of title 18,*  
16                  *United States Code, as added by this title.*

17                  (iii) *Supplement funding for programs*  
18                  *that increase public safety by providing re-*  
19                  *sources to State and local law enforcement*  
20                  *officials, including for the adoption of inno-*  
21                  *vative technologies and information sharing*  
22                  *capabilities.*

23           (b) *PRISON WORK PROGRAMS REPORT.*—Not later  
24           than 180 days after the date of enactment of this Act, the  
25           Attorney General shall submit to the appropriate commit-

1 *tees of Congress a report on the status of prison work pro-*  
2 *grams at facilities operated by the Bureau of Prisons, in-*  
3 *cluding—*

4           (1) *a strategy to expand the availability of such*  
5 *programs without reducing job opportunities for*  
6 *workers in the United States who are not in the cus-*  
7 *tody of the Bureau of Prisons;*

8           (2) *an assessment of the feasibility of expanding*  
9 *such programs, consistent with the strategy required*  
10 *under paragraph (1), so that, not later than 5 years*  
11 *after the date of enactment of this Act, not less than*  
12 *75 percent of eligible low-risk offenders have the op-*  
13 *portunity to participate in a prison work program*  
14 *for not less than 20 hours per week; and*

15           (3) *a detailed discussion of legal authorities that*  
16 *would be useful or necessary to achieve the goals de-*  
17 *scribed in paragraphs (1) and (2).*

18 *(c) REPORTING ON RECIDIVISM RATES.—*

19           (1) *IN GENERAL.—Beginning 1 year after the*  
20 *date of enactment of this Act, and every year there-*  
21 *after, the Attorney General, in consultation with the*  
22 *Administrative Office of the United States Courts,*  
23 *shall report to the appropriate committees of Congress*  
24 *on rates of recidivism among individuals who have*

1       *been released from Federal prison and who are under*  
2       *judicial supervision.*

3               (2) *CONTENTS.*—*The report required under*  
4       *paragraph (1) shall contain information on rates of*  
5       *recidivism among former Federal prisoners, including*  
6       *information on rates of recidivism among former Fed-*  
7       *eral prisoners based on the following criteria:*

8                       (A) *Primary offense charged.*

9                       (B) *Length of sentence imposed and served.*

10                      (C) *Bureau of Prisons facility or facilities*  
11       *in which the prisoner's sentence was served.*

12                      (D) *Recidivism reduction programming*  
13       *that the prisoner successfully completed, if any.*

14                      (E) *The prisoner's assessed risk of recidi-*  
15       *vism.*

16               (3) *ASSISTANCE.*—*The Administrative Office of*  
17       *the United States Courts shall provide to the Attorney*  
18       *General any information in its possession that is nec-*  
19       *essary for the completion of the report required under*  
20       *paragraph (1).*

21               (d) *REPORTING ON EXCLUDED PRISONERS.*—*Not later*  
22       *than 8 years after the date of enactment of this Act, the*  
23       *Attorney General shall submit to the appropriate commit-*  
24       *tees of Congress a report on the effectiveness of recidivism*  
25       *reduction programs and productive activities offered to*

1 *prisoners described in section 3621(h)(6)(A)(iii) of title 18,*  
 2 *United States Code, as added by this title, as well as those*  
 3 *ineligible for credit toward prerelease custody under section*  
 4 *3624(c)(2) of title 18, United States Code, as added by this*  
 5 *title, which shall review the effectiveness of different cat-*  
 6 *egories of incentives in reducing recidivism.*

7 (e) *DEFINITION.—The term “appropriate committees*  
 8 *of Congress” means—*

9 (1) *the Committee on the Judiciary and the Sub-*  
 10 *committee on Commerce, Justice, Science, and Re-*  
 11 *lated Agencies of the Committee on Appropriations of*  
 12 *the Senate; and*

13 (2) *the Committee on the Judiciary and the Sub-*  
 14 *committee on Commerce, Justice, Science, and Re-*  
 15 *lated Agencies of the Committee on Appropriations of*  
 16 *the House of Representatives.*

17 **SEC. 206. ADDITIONAL TOOLS TO PROMOTE RECOVERY AND**  
 18 **PREVENT DRUG AND ALCOHOL ABUSE AND**  
 19 **DEPENDENCE.**

20 (a) *REENTRY AND RECOVERY PLANNING.—*

21 (1) *PRESENTENCE REPORTS.—Section 3552 of*  
 22 *title 18, United States Code, is amended—*

23 (A) *by redesignating subsections (b), (c),*  
 24 *and (d) as subsections (c), (d), and (e), respec-*  
 25 *tively;*



1                   (B) by inserting after subsection (a) the fol-  
2                   lowing:

3                   “(b) *REENTRY AND RECOVERY PLANNING.*—

4                   “(1) *IN GENERAL.*—In addition to the informa-  
5                   tion required by rule 32(d) of the Federal Rules of  
6                   Criminal Procedure, the report submitted pursuant to  
7                   subsection (a) shall contain the following information,  
8                   unless such information is required to be excluded  
9                   pursuant to rule 32(d)(3) of the Federal Rules of  
10                  Criminal Procedure or except as provided in para-  
11                  graph (2):

12                  “(A) Information about the defendant’s his-  
13                  tory of substance abuse and addiction, if appli-  
14                  cable.

15                  “(B) Information about the defendant’s  
16                  service in the Armed Forces of the United States  
17                  and veteran status, if applicable.

18                  “(C) A detailed plan, which shall include  
19                  the identification of programming provided by  
20                  the Bureau of Prisons that is appropriate for the  
21                  defendant’s needs, that the probation officer de-  
22                  termines will—

23                          “(i) reduce the likelihood the defendant  
24                          will abuse drugs or alcohol if the defendant  
25                          has a history of substance abuse;

1           “(ii) reduce the defendant’s likelihood  
2           of recidivism by addressing the defendant’s  
3           specific recidivism risk factors; and

4           “(iii) assist the defendant preparing  
5           for reentry into the community.

6           “(2) *EXCEPTIONS.*—The information described  
7           in paragraph (1)(C)(iii) shall not be required to be  
8           included under paragraph (1), in the discretion of the  
9           Probation Officer, if the applicable sentencing range  
10          under the sentencing guidelines, as determined by the  
11          probation officer, includes a sentence of life imprison-  
12          ment or a sentence of probation.”;

13          (C) in subsection (c), as redesignated, in the  
14          first sentence, by striking “subsection (a) or (c)”  
15          and inserting “subsection (a) or (d)”; and

16          (D) in subsection (d), as redesignated, by  
17          striking “subsection (a) or (b)” and inserting  
18          “subsection (a) or (c)”.

19          (2) *TECHNICAL AND CONFORMING AMEND-*  
20          *MENT.*—Section 3672 of title 18, United States Code,  
21          is amended in the eighth undesignated paragraph by  
22          striking “subsection (b) or (c)” and inserting “sub-  
23          section (c) or (d)”.

1           **(b) PROMOTING FULL UTILIZATION OF RESIDENTIAL**  
2 *DRUG TREATMENT.*—Section 3621(e)(2) of title 18, United  
3 States Code, is amended by adding at the end the following:

4                   “(C) *COMMENCEMENT OF TREATMENT.*—Not  
5                   *later than 3 years after the date of enactment of*  
6                   *this subparagraph, the Director of the Bureau of*  
7                   *Prisons shall ensure that each eligible prisoner*  
8                   *has an opportunity to commence participation*  
9                   *in treatment under this subsection by such date*  
10                   *as is necessary to ensure that the prisoner com-*  
11                   *pletes such treatment not later than 1 year before*  
12                   *the date on which the prisoner would otherwise*  
13                   *be released from custody prior to the application*  
14                   *of any reduction in sentence pursuant to this*  
15                   *paragraph.*

16                   “(D) *OTHER CREDITS.*—The Director of the  
17                   *Bureau of Prisons may, in the Director’s discre-*  
18                   *tion, reduce the credit awarded under subsection*  
19                   *(h)(6)(A) to a prisoner who receives a reduction*  
20                   *under subparagraph (B), but such reduction*  
21                   *may not exceed one-half the amount of the reduc-*  
22                   *tion awarded to the prisoner under subpara-*  
23                   *graph (B).”.*

1       (c) *SUPERVISED RELEASE PILOT PROGRAM TO RE-*  
2 *DUCE RECIDIVISM AND IMPROVE RECOVERY FROM ALCO-*  
3 *HOL AND DRUG ABUSE.—*

4           (1) *IN GENERAL.—Not later than 2 years after*  
5 *the date of enactment of this Act, the Administrative*  
6 *Office of the United States Courts shall establish a re-*  
7 *cidivism reduction and recovery enhancement pilot*  
8 *program, premised on high-intensity supervision and*  
9 *the use of swift, predictable, and graduated sanctions*  
10 *for noncompliance with program rules, in Federal ju-*  
11 *dicial districts selected by the Administrative Office of*  
12 *the United States Courts in consultation with the At-*  
13 *torney General.*

14           (2) *REQUIREMENTS OF PROGRAM.—Participa-*  
15 *tion in the pilot program required under paragraph*  
16 *(1) shall be subject to the following requirements:*

17           (A) *Upon entry into the pilot program, the*  
18 *court shall notify program participants of the*  
19 *rules of the program and consequences for vio-*  
20 *lating such rules, including the penalties to be*  
21 *imposed as a result of such violations pursuant*  
22 *to subparagraph (E).*

23           (B) *Probation officers shall conduct regular*  
24 *drug testing of all pilot program participants*  
25 *with a history of substance abuse.*

1           (C) *In the event that a probation officer de-*  
2 *termines that a participant has violated a term*  
3 *of supervised release, the officer shall notify the*  
4 *court within 24 hours of such determination, ab-*  
5 *sent good cause.*

6           (D) *As soon as is practicable, and in no*  
7 *case more than 1 week after the violation was re-*  
8 *ported by the probation officer, absent good*  
9 *cause, the court shall conduct a hearing on the*  
10 *alleged violation.*

11           (E) *If the court determines that a program*  
12 *participant has violated a term of supervised re-*  
13 *lease, it shall impose an appropriate sanction,*  
14 *which may include the following, if appropriate:*

15                   (i) *Modification of the terms of such*  
16 *participant's supervised release, which may*  
17 *include imposition of a period of home con-*  
18 *finement.*

19                   (ii) *Referral to appropriate substance*  
20 *abuse treatment.*

21                   (iii) *Revocation of the defendant's su-*  
22 *pervised release and the imposition of a sen-*  
23 *tence of incarceration that is no longer than*  
24 *necessary to punish the participant for such*

1                    *violation and deter the participant from*  
2                    *committing future violations.*

3                    *(iv) For participants who habitually*  
4                    *fail to abide by program rules or pose a*  
5                    *threat to public safety, termination from the*  
6                    *program.*

7                    *(3) STATUS OF PARTICIPANT IF INCARCER-*  
8                    *ATED.—*

9                    *(A) IN GENERAL.—In the event that a pro-*  
10                    *gram participant is sentenced to incarceration*  
11                    *as described in paragraph (2)(E)(iii), the partic-*  
12                    *ipant shall remain in the program upon release*  
13                    *from incarceration unless terminated from the*  
14                    *program in accordance with paragraph*  
15                    *(2)(E)(iv).*

16                    *(B) POLICIES FOR MAINTAINING EMPLOY-*  
17                    *MENT.—The Bureau of Prisons, in consultation*  
18                    *with the Chief Probation Officers of the Federal*  
19                    *judicial districts selected for participation in the*  
20                    *pilot program required under paragraph (1),*  
21                    *shall develop policies to enable program partici-*  
22                    *pants sentenced to terms of incarceration as de-*  
23                    *scribed in paragraph (2)(E) to, where prac-*  
24                    *ticable, serve the terms of incarceration while*

1           *maintaining employment, including allowing the*  
2           *terms of incarceration to be served on weekends.*

3           (4) *ADVISORY SENTENCING POLICIES.*—

4                   (A) *IN GENERAL.*—*The United States Sen-*  
5                   *tencing Commission, in consultation with the*  
6                   *Chief Probation Officers, the United States At-*  
7                   *torneys, Federal Defenders, and Chief Judges of*  
8                   *the districts selected for participation in the*  
9                   *pilot program required under paragraph (1),*  
10                   *shall establish advisory sentencing policies to be*  
11                   *used by the district courts in imposing sentences*  
12                   *of incarceration in accordance with paragraph*  
13                   *(2)(E).*

14                   (B) *REQUIREMENT.*—*The advisory sen-*  
15                   *tencing policies established under subparagraph*  
16                   *(A) shall be consistent with the stated goal of the*  
17                   *pilot program to impose predictable and grad-*  
18                   *uated sentences that are no longer than necessary*  
19                   *for violations of program rules.*

20                   (5) *DURATION OF PROGRAM.*—*The pilot program*  
21                   *required under paragraph (1) shall continue for not*  
22                   *less than 5 years and may be extended for not more*  
23                   *than 5 years by the Administrative Office of the*  
24                   *United States Courts.*

1           (6) *ASSESSMENT OF PROGRAM OUTCOMES AND*  
2           *REPORT TO CONGRESS.*—

3           (A) *IN GENERAL.*—*Not later than 6 years*  
4           *after the date of enactment of this Act, the Ad-*  
5           *ministrative Office of the United States Courts*  
6           *shall conduct an evaluation of the pilot program*  
7           *and submit to Congress a report on the results*  
8           *of the evaluation.*

9           (B) *CONTENTS.*—*The report required under*  
10          *subparagraph (A) shall include—*

11           (i) *the rates of substance abuse among*  
12           *program participants;*

13           (ii) *the rates of violations of the terms*  
14           *of supervised release by program partici-*  
15           *pants, and sanctions imposed;*

16           (iii) *information about employment of*  
17           *program participants;*

18           (iv) *a comparison of outcomes among*  
19           *program participants with outcomes among*  
20           *similarly situated individuals under the su-*  
21           *per vision of United States Probation and*  
22           *Pretrial Services not participating in the*  
23           *program; and*

24           (v) *an assessment of the effectiveness of*  
25           *each of the relevant features of the program.*



1 **SEC. 207. ERIC WILLIAMS CORRECTIONAL OFFICER PRO-**  
 2 **TECTION ACT.**

3 (a) *IN GENERAL.*—Chapter 303 of title 18, United  
 4 States Code, is amended by adding at the end the following:

5 **“§4049. Officers and employees of the Bureau of Pris-**  
 6 **ons authorized to carry oleoresin cap-**  
 7 **sicum spray**

8 “(a) *IN GENERAL.*—The Director of the Bureau of  
 9 Prisons shall issue, on a routine basis, oleoresin capsicum  
 10 spray to—

11 “(1) any officer or employee of the Bureau of  
 12 Prisons who—

13 “(A) is employed in a prison that is not a  
 14 minimum or low security prison; and

15 “(B) may respond to an emergency situa-  
 16 tion in such a prison; and

17 “(2) such additional officers and employees of  
 18 prisons as the Director determines appropriate, in ac-  
 19 cordance with this section.

20 “(b) *TRAINING REQUIREMENT.*—

21 “(1) *IN GENERAL.*—In order for an officer or  
 22 employee of the Bureau of Prisons, including a cor-  
 23 rectional officer, to be eligible to receive and carry ole-  
 24 oresin capsicum spray pursuant to this section, the  
 25 officer or employee shall complete a training course

1       *before being issued such spray, and annually there-*  
2       *after, on the use of oleoresin capsicum spray.*

3               “(2) *TRANSFERABILITY OF TRAINING.—An offi-*  
4       *cer or employee of the Bureau of Prisons who com-*  
5       *pletes a training course pursuant to paragraph (1)*  
6       *and subsequently transfers to employment at a dif-*  
7       *ferent prison, shall not be required to complete an ad-*  
8       *ditional training course solely due such transfer.*

9               “(3) *TRAINING CONDUCTED DURING REGULAR*  
10       *EMPLOYMENT.—An officer or employee of the Bureau*  
11       *of Prisons who completes a training course required*  
12       *under paragraph (1) shall do so during the course of*  
13       *that officer or employee’s regular employment, and*  
14       *shall be compensated at the same rate that the officer*  
15       *or employee would be compensated for conducting the*  
16       *officer or employee’s regular duties.*

17              “(c) *USE OF OLEORESIN CAPSICUM SPRAY.—Officers*  
18       *and employees of the Bureau of Prisons issued oleoresin*  
19       *capsicum spray pursuant to subsection (a) may use such*  
20       *spray to reduce acts of violence—*

21                   “(1) *committed by prisoners against themselves,*  
22       *other prisoners, prison visitors, and officers and em-*  
23       *ployees of the Bureau of Prisons; and*

1           “(2) committed by prison visitors against them-  
2           selves, prisoners, other visitors, and officers and em-  
3           ployees of the Bureau of Prisons.”.

4           (b) *CLERICAL AMENDMENT.*—The table of sections for  
5 chapter 303 of part III of title 18, United States Code, is  
6 amended by inserting after the item relating to section 4048  
7 the following:

          “4049. Officers and employees of the Bureau of Prisons authorized to carry oleo-  
          resin capsicum spray.”.

8           (c) *BOP EVALUATION.*—Not later than the date that  
9 is 3 years after the date on which the Director of the Bureau  
10 of Prisons begins to issue oleoresin capsicum spray to offi-  
11 cers and employees of the Bureau of Prisons pursuant to  
12 section 4049 of title 18, United States Code (as added by  
13 this title), the Director of the Bureau of Prisons shall sub-  
14 mit to Congress a report that includes the following:

15           (1) An evaluation of the effectiveness of issuing  
16 oleoresin capsicum spray to officers and employees of  
17 the Bureau of Prisons in prisons that are not min-  
18 imum or low security prisons, which shall include  
19 such metrics as—

20           (A) reducing acts of violence committed by  
21 prisoners against themselves, other prisoners,  
22 prison visitors, and officers and employees of the  
23 Bureau of Prisons in such prisons; and

1                   (B) other metrics determined relevant by the  
2           Director.

3           (2) An evaluation of the advisability of issuing  
4           oleoresin capsicum spray to officers and employees of  
5           the Bureau of Prisons in prisons that are minimum  
6           or low security prisons, including—

7                   (A) the effectiveness that issuing such spray  
8                   in such prisons would have on reducing acts of  
9                   violence committed by prisoners against them-  
10                  selves, other prisoners, prison visitors, and offi-  
11                  cers and employees of the Bureau of Prisons in  
12                  such prisons; and

13                   (B) the cost of issuing such spray in such  
14                  prisons. Recommendations to improve the safety  
15                  of officers and employees of the Bureau of Pris-  
16                  ons in prisons.

17           (d) GAO REPORT.—Not later than 1 year after the  
18           date on which the Director of the Bureau of Prisons submits  
19           to Congress the report required under subsection (c), the  
20           Comptroller General of the United States shall submit to  
21           Congress a report that assesses the results of the evaluation  
22           under subsection (c), including the strengths and weaknesses  
23           of the evaluation.

1 **SEC. 208. PROMOTING SUCCESSFUL REENTRY.**

2 (a) FEDERAL REENTRY DEMONSTRATION  
3 PROJECTS.—

4 (1) EVALUATION OF EXISTING BEST PRACTICES  
5 FOR REENTRY.—Not later than 2 years after the date  
6 of enactment of this Act, the Attorney General, in  
7 consultation with the Administrative Office of the  
8 United States Courts, shall—

9 (A) evaluate best practices used for the re-  
10 entry into society of individuals released from  
11 the custody of the Bureau of Prisons, includ-  
12 ing—

13 (i) conducting examinations of reentry  
14 practices in Federal, State, and local justice  
15 systems; and

16 (ii) consulting with Federal, State, and  
17 local prosecutors, Federal, State, and local  
18 public defenders, nonprofit organizations  
19 that provide reentry services, and criminal  
20 justice experts; and

21 (B) submit to the Committee on the Judici-  
22 ary of the Senate and the Committee on the Ju-  
23 diciary of the House of Representatives a report  
24 that details the evaluation conducted under sub-  
25 paragraph (A).

1           (2) *CREATION OF REENTRY DEMONSTRATION*  
2 *PROJECTS.*—*Not later than 3 years after the date of*  
3 *enactment of this Act, the Attorney General, in con-*  
4 *sultation with the Administrative Office of the United*  
5 *States Courts, shall, subject to the availability of ap-*  
6 *propriations, select an appropriate number of Federal*  
7 *judicial districts to conduct Federal reentry dem-*  
8 *onstration projects using the best practices identified*  
9 *in the evaluation conducted under paragraph (1),*  
10 *which may include Federal judicial districts with ex-*  
11 *isting reentry programs. The Attorney General shall*  
12 *determine the appropriate number of Federal judicial*  
13 *districts to conduct demonstration projects under this*  
14 *paragraph.*

15           (3) *PROJECT DESIGN.*—*For each Federal judicial*  
16 *district selected under paragraph (2), the United*  
17 *States Attorney, in consultation with the Chief Judge,*  
18 *Chief Federal Defender, the Chief Probation Officer,*  
19 *the Bureau of Justice Assistance, the National Insti-*  
20 *tute of Justice, and criminal justice experts shall de-*  
21 *sign a Federal reentry demonstration project for the*  
22 *Federal judicial district in accordance with para-*  
23 *graph (4).*

24           (4) *PROJECT ELEMENTS.*—*A project designed*  
25 *under paragraph (3) shall coordinate efforts by Fed-*

1        *eral agencies to assist participating prisoners in pre-*  
2        *paring for and adjusting to reentry into the commu-*  
3        *nity and may include, as appropriate—*

4                *(A) the use of community correctional fa-*  
5                *cilities and home confinement, as determined to*  
6                *be appropriate by the Bureau of Prisons;*

7                *(B) a reentry review team for each prisoner*  
8                *to develop a reentry plan specific to the needs of*  
9                *the prisoner, and to meet with the prisoner fol-*  
10              *lowing transfer to monitor the reentry plan;*

11              *(C) steps to assist the prisoner in obtaining*  
12              *health care, housing, and employment, before the*  
13              *prisoner's release from a community correctional*  
14              *facility or home confinement;*

15              *(D) regular drug testing for participants*  
16              *with a history of substance abuse;*

17              *(E) substance abuse treatment, which may*  
18              *include addiction treatment medication, if ap-*  
19              *propriate, medical treatment, including mental*  
20              *health treatment, occupational, vocational and*  
21              *educational training, apprenticeships, life skills*  
22              *instruction, recovery support, conflict resolution*  
23              *training, and other programming to promote ef-*  
24              *fective reintegration into the community;*

1           (F) the participation of volunteers to serve  
2 as advisors and mentors to prisoners being re-  
3 leased into the community;

4           (G) steps to ensure that the prisoner makes  
5 satisfactory progress toward satisfying any obli-  
6 gations to victims of the prisoner's offense, in-  
7 cluding any obligation to pay restitution; and

8           (H) the appointment of a reentry coordi-  
9 nator in the United States Attorney's Office.

10           (5) *REVIEW OF PROJECT OUTCOMES.*—Not later  
11 than 5 years after the date of enactment of this Act,  
12 the Administrative Office of the United States Courts,  
13 in consultation with the Attorney General, shall—

14           (A) evaluate the results from each Federal  
15 judicial district selected under paragraph (2),  
16 including the extent to which participating pris-  
17 oners released from the custody of the Bureau of  
18 Prisons were successfully reintegrated into their  
19 communities, including whether the partici-  
20 pating prisoners maintained employment, and  
21 refrained from committing further offenses; and

22           (B) submit to the Committee on the Judici-  
23 ary of the Senate and the Committee on the Ju-  
24 diciary of the House of Representatives a report  
25 that contains—



1                   (i) the evaluation of the best practices  
2                   identified in the report required under  
3                   paragraph (1); and

4                   (ii) the results of the demonstration  
5                   projects required under paragraph (2).

6           (b) *STUDY ON THE IMPACT OF REENTRY ON CERTAIN*  
7 *COMMUNITIES.*—

8                   (1) *IN GENERAL.*—Not later than 2 years after  
9                   the date of enactment of this Act, the Attorney Gen-  
10                   eral, in consultation with the Administrative Office of  
11                   the United States Courts, shall submit to the Com-  
12                   mittee on the Judiciary of the Senate and the Com-  
13                   mittee on the Judiciary of the House of Representa-  
14                   tives a report on the impact of reentry of prisoners  
15                   on communities in which a disproportionate number  
16                   of individuals reside upon release from incarceration.

17                   (2) *CONTENTS.*—The report required under  
18                   paragraph (1) shall analyze the impact of reentry of  
19                   individuals released from both State and Federal cor-  
20                   rectional systems as well as State and Federal juve-  
21                   nile justice systems, and shall include—

22                           (A) an assessment of the reentry burdens  
23                           borne by local communities and local law en-  
24                           forcement agencies;

1           (B) a review of the resources available in  
 2           such communities to support successful reentry,  
 3           including resources provided by State, local, and  
 4           Federal governments, the extent to which those  
 5           resources are used effectively; and

6           (C) recommendations to strengthen the re-  
 7           sources in such communities available to support  
 8           successful reentry and to lessen the burden placed  
 9           on such communities by the need to support re-  
 10          entry.

11          (c) *FACILITATING REENTRY ASSISTANCE TO VET-*  
 12 *ERANS.*—

13           (1) *IN GENERAL.*—Not later than 2 months after  
 14           the date of the commencement of a prisoner's sentence  
 15           pursuant to section 3585(a) of title 18, United States  
 16           Code, the Director of the Bureau of Prisons shall no-  
 17           tify the Secretary of Veterans Affairs if the prisoner's  
 18           presentence report, prepared pursuant to section 3552  
 19           of title 18, United States Code, indicates that the  
 20           prisoner has previously served in the Armed Forces of  
 21           the United States or if the prisoner has so notified the  
 22           Bureau of Prisons.

23           (2) *POST-COMMENCEMENT NOTICE.*—If the pris-  
 24           oner informs the Bureau of Prisons of the prisoner's  
 25           prior service in the Armed Forces of the United States

1       *after the commencement of the prisoner's sentence, the*  
 2       *Director of the Bureau of Prisons shall notify the Sec-*  
 3       *retary of Veterans Affairs not later than 2 months*  
 4       *after the date on which the prisoner provides such no-*  
 5       *tice.*

6               (3) *CONTENTS OF NOTICE.*—*The notice provided*  
 7       *by the Director of the Bureau of Prisons to the Sec-*  
 8       *retary of Veterans Affairs under this subsection shall*  
 9       *include the identity of the prisoner, the facility in*  
 10       *which the prisoner is located, the prisoner's offense of*  
 11       *conviction, and the length of the prisoner's sentence.*

12              (4) *ACCESS TO VA.*—*The Bureau of Prisons shall*  
 13       *provide the Department of Veterans Affairs with rea-*  
 14       *sonable access to any prisoner who has previously*  
 15       *served in the Armed Forces of the United States for*  
 16       *purposes of facilitating that prisoner's reentry.*

17 **SEC. 209. PAROLE FOR JUVENILES.**

18       (a) *IN GENERAL.*—*Chapter 403 of title 18, United*  
 19       *States Code, is amended by inserting after section 5032 the*  
 20       *following:*

21       **“§ 5032A. Modification of an imposed term of impris-**  
 22                       **onment for violations of law committed**  
 23                       **prior to age 18**

24       “(a) *IN GENERAL.*—*Notwithstanding any other provi-*  
 25       *sion of law, a court may reduce a term of imprisonment*

1 *imposed upon a defendant convicted as an adult for an of-*  
2 *fense committed and completed before the defendant at-*  
3 *tained 18 years of age if—*

4           “(1) *the defendant has served 20 years in cus-*  
5 *tody for the offense; and*

6           “(2) *the court finds, after considering the factors*  
7 *set forth in subsection (c), that the defendant is not*  
8 *a danger to the safety of any person or the commu-*  
9 *nity and that the interests of justice warrant a sen-*  
10 *tence modification.*

11          “(b) *SUPERVISED RELEASE.—Any defendant whose*  
12 *sentence is reduced pursuant to subsection (a) shall be or-*  
13 *dered to serve a period of supervised release of not less than*  
14 *5 years following release from imprisonment. The condi-*  
15 *tions of supervised release and any modification or revoca-*  
16 *tion of the term of supervise release shall be in accordance*  
17 *with section 3583.*

18          “(c) *FACTORS AND INFORMATION TO BE CONSIDERED*  
19 *IN DETERMINING WHETHER TO MODIFY A TERM OF IM-*  
20 *PRISONMENT.—The court, in determining whether to reduce*  
21 *a term of imprisonment pursuant to subsection (a), shall*  
22 *consider—*

23           “(1) *the factors described in section 3553(a), in-*  
24 *cluding the nature of the offense and the history and*  
25 *characteristics of the defendant;*

1           “(2) the age of the defendant at the time of the  
2 offense;

3           “(3) a report and recommendation of the Bureau  
4 of Prisons, including information on whether the de-  
5 fendant has substantially complied with the rules of  
6 each institution to which the defendant has been con-  
7 fined and whether the defendant has completed any  
8 educational, vocational, or other prison program,  
9 where available;

10           “(4) a report and recommendation of the United  
11 States attorney for any district in which an offense  
12 for which the defendant is imprisoned was prosecuted;

13           “(5) whether the defendant has demonstrated  
14 maturity, rehabilitation, and a fitness to reenter soci-  
15 ety sufficient to justify a sentence reduction;

16           “(6) any statement, which may be presented  
17 orally or otherwise, by any victim of an offense for  
18 which the defendant is imprisoned or by a family  
19 member of the victim if the victim is deceased;

20           “(7) any report of physical, mental, or psy-  
21 chiatric examination of the defendant conducted by a  
22 licensed health care professional;

23           “(8) the family and community circumstances of  
24 the defendant at the time of the offense, including any

1 *history of abuse, trauma, or involvement in the child*  
2 *welfare system;*

3 “(9) *the extent of the role of the defendant in the*  
4 *offense and whether, and to what extent, an adult was*  
5 *involved in the offense;*

6 “(10) *the diminished culpability of juveniles as*  
7 *compared to that of adults, and the hallmark features*  
8 *of youth, including immaturity, impetuosity, and*  
9 *failure to appreciate risks and consequences, which*  
10 *counsel against sentencing them to the otherwise ap-*  
11 *plicable term of imprisonment; and*

12 “(11) *any other information the court determines*  
13 *relevant to the decision of the court.*

14 “(d) *LIMITATION ON APPLICATIONS PURSUANT TO*  
15 *THIS SECTION.—*

16 “(1) *SECOND APPLICATION.—Not earlier than 5*  
17 *years after the date on which an order entered by a*  
18 *court on an initial application under this section be-*  
19 *comes final, a court shall entertain a second applica-*  
20 *tion by the same defendant under this section.*

21 “(2) *FINAL APPLICATION.—Not earlier than 5*  
22 *years after the date on which an order entered by a*  
23 *court on a second application under paragraph (1)*  
24 *becomes final, a court shall entertain a final applica-*  
25 *tion by the same defendant under this section.*

1           “(3) *PROHIBITION.*—*A court may not entertain*  
2 *an application filed after an application filed under*  
3 *paragraph (2) by the same defendant.*

4           “(e) *PROCEDURES.*—

5           “(1) *NOTICE.*—*The Bureau of Prisons shall pro-*  
6 *vide written notice of this section to—*

7           “(A) *any defendant who has served 19 years*  
8 *in prison for an offense committed and com-*  
9 *pleted before the defendant attained 18 years of*  
10 *age for which the defendant was convicted as an*  
11 *adult; and*

12           “(B) *the sentencing court, the United States*  
13 *attorney, and the Federal Public Defender or Ex-*  
14 *ecutive Director of the Community Defender Or-*  
15 *ganization for the judicial district in which the*  
16 *sentence described in subparagraph (A) was im-*  
17 *posed.*

18           “(2) *CRIME VICTIMS RIGHTS.*—*Upon receiving*  
19 *noticed under paragraph (1), the United States attor-*  
20 *ney shall provide any notifications required under*  
21 *section 3771.*

22           “(3) *APPLICATION.*—

23           “(A) *IN GENERAL.*—*An application for a*  
24 *sentence reduction under this section shall be*  
25 *filed as a motion to reduce the sentence of the de-*

1        *defendant and may include affidavits or other*  
2        *written material.*

3                *“(B) REQUIREMENT.—A motion to reduce a*  
4        *sentence under this section shall be filed with the*  
5        *sentencing court and a copy shall be served on*  
6        *the United States attorney for the judicial dis-*  
7        *trict in which the sentence was imposed.*

8                *“(4) EXPANDING THE RECORD; HEARING.—*

9                        *“(A) EXPANDING THE RECORD.—After the*  
10        *filing of a motion to reduce a sentence under this*  
11        *section, the court may direct the parties to ex-*  
12        *pend the record by submitting additional writ-*  
13        *ten materials relating to the motion.*

14                        *“(B) HEARING.—*

15                                *“(i) IN GENERAL.—The court shall*  
16        *conduct a hearing on the motion, at which*  
17        *the defendant and counsel for the defendant*  
18        *shall be given the opportunity to be heard.*

19                                *“(ii) EVIDENCE.—In a hearing under*  
20        *this section, the court may allow for parties*  
21        *to present evidence.*

22                                *“(iii) DEFENDANT’S PRESENCE.—At a*  
23        *hearing under this section, the defendant*  
24        *shall be present unless the defendant waives*  
25        *the right to be present. The requirement*



1           *under this clause may be satisfied by the de-*  
2           *fendant appearing by video teleconference.*

3           “(iv) *COUNSEL.*—*A defendant who is*  
4           *unable to obtain counsel is entitled to have*  
5           *counsel appointed to represent the defendant*  
6           *for proceedings under this section, including*  
7           *any appeal, unless the defendant waives the*  
8           *right to counsel.*

9           “(v) *FINDINGS.*—*The court shall state*  
10          *in open court, and file in writing, the rea-*  
11          *sons for granting or denying a motion*  
12          *under this section.*

13          “(C) *APPEAL.*—*The Government or the de-*  
14          *fendant may file a notice of appeal in the dis-*  
15          *trict court for review of a final order under this*  
16          *section. The time limit for filing such appeal*  
17          *shall be governed by rule 4(a) of the Federal*  
18          *Rules of Appellate Procedure.*

19          “(f) *EDUCATIONAL AND REHABILITATIVE PRO-*  
20          *GRAMS.*—*A defendant who is convicted and sentenced as an*  
21          *adult for an offense committed and completed before the de-*  
22          *fendant attained 18 years of age may not be deprived of*  
23          *any educational, training, or rehabilitative program that*  
24          *is otherwise available to the general prison population.”.*

1           (b) *TABLE OF SECTIONS.*—*The table of sections for*  
 2 *chapter 403 of title 18, United States Code, is amended by*  
 3 *inserting after the item relating to section 5032 the fol-*  
 4 *lowing:*

*“5032A. Modification of an imposed term of imprisonment for violations of law  
 committed prior to age 18.”.*

5           (c) *APPLICABILITY.*—*The amendments made by this*  
 6 *section shall apply to any conviction entered before, on, or*  
 7 *after the date of enactment of this Act.*

8 **SEC. 210. COMPASSIONATE RELEASE INITIATIVE.**

9           *Section 231(g) of the Second Chance Act of 2007 (42*  
 10 *U.S.C. 17541(g)) is amended—*

11                   (1) *in paragraph (1)—*

12                               (A) *by inserting “and eligible terminally ill*  
 13 *offenders” after “elderly offenders” each place*  
 14 *that term appears; and*

15                               (B) *in subparagraph (B), by inserting “,*  
 16 *upon written request from either the Bureau of*  
 17 *Prisons or an eligible elderly offender or eligible*  
 18 *terminally ill offender” after “to home deten-*  
 19 *tion”;*

20                   (2) *in paragraph (2), by inserting “or eligible*  
 21 *terminally ill offender” after “elderly offender”;*

22                   (3) *in paragraph (3), by striking “and shall be*  
 23 *carried out during fiscal years 2009 and 2010”;*

24                   (4) *in paragraph (4)—*

1           (A) by inserting “or eligible terminally ill  
2 offender” after “each eligible elderly offender”;  
3 and

4           (B) by inserting “and eligible terminally ill  
5 offenders” after “eligible elderly offenders”; and  
6 (5) in paragraph (5)—

7           (A) in subparagraph (A)—

8           (i) in clause (i), by striking “65 years”  
9 and inserting “60 years”; and

10          (ii) in clause (ii)—

11           (I) by striking “the greater of 10  
12 years or”; and

13           (II) by striking “75 percent” and  
14 inserting “ $\frac{2}{3}$ ”; and

15          (B) by adding at the end the following:

16           “(D) *ELIGIBLE TERMINALLY ILL OF-*  
17 *FENDER.—The term ‘eligible terminally ill of-*  
18 *fender’ means an offender in the custody of the*  
19 *Bureau of Prisons who—*

20           “(i) is serving a term of imprisonment  
21 based on conviction for an offense or offenses  
22 that do not include any crime of violence  
23 (as defined in section 16 of title 18, United  
24 States Code), sex offense (as defined in sec-  
25 tion 111(5) of the Sex Offender Registration

1           *and Notification Act (42 U.S.C. 16911(5)),*  
2           *offense described in section 2332b(g)(5)(B)*  
3           *of title 18, United States Code, or offense*  
4           *under chapter 37 of title 18, United States*  
5           *Code;*

6           *“(ii) satisfies the criteria specified in*  
7           *clauses (iii) through (vii) of subparagraph*  
8           *(A); and*

9           *“(iii) has been determined by a med-*  
10          *ical doctor approved by the Bureau of Pris-*  
11          *ons to be—*

12            *“(I) in need of care at a nursing*  
13            *home, intermediate care facility, or as-*  
14            *sisted living facility, as those terms are*  
15            *defined in section 232 of the National*  
16            *Housing Act (12 U.S.C. 1715w); or*

17            *“(II) diagnosed with a terminal*  
18            *illness.”.*

19 **SEC. 211. JUVENILE SEALING AND EXPUNGEMENT.**

20        *(a) PURPOSE.—The purpose of this section is to—*

21            *(1) protect children and adults against damage*  
22            *stemming from their juvenile acts and subsequent ju-*  
23            *venile delinquency records, including law enforce-*  
24            *ment, arrest, and court records; and*

1           (2) *prevent the unauthorized use or disclosure of*  
2           *confidential juvenile delinquency records and any po-*  
3           *tential employment, financial, psychological, or other*  
4           *harm that would result from such unauthorized use or*  
5           *disclosure.*

6           (b) *DEFINITIONS.—Section 5031 of title 18, United*  
7           *States Code, is amended to read as follows:*

8           **“§ 5031. Definitions**

9           *“In this chapter—*

10           *“(1) the term ‘adjudication’ means a determina-*  
11           *tion by a judge that a person committed an act of ju-*  
12           *venile delinquency;*

13           *“(2) the term ‘conviction’ means a judgment or*  
14           *disposition in criminal court against a person fol-*  
15           *lowing a finding of guilt by a judge or jury;*

16           *“(3) the term ‘destroy’ means to render a file*  
17           *unreadable, whether paper, electronic, or otherwise*  
18           *stored, by shredding, pulverizing, pulping, incin-*  
19           *erating, overwriting, reformatting the media, or other*  
20           *means;*

21           *“(4) the term ‘expunge’ means to destroy a*  
22           *record and obliterate the name of the person to whom*  
23           *the record pertains from each official index or public*  
24           *record;*

1           “(5) the term ‘expungement hearing’ means a  
2 hearing held under section 5044(b)(2)(B);

3           “(6) the term ‘expungement petition’ means a  
4 petition for expungement filed under section 5044(b);

5           “(7) the term ‘high-risk, public trust position’  
6 means a position designated as a public trust posi-  
7 tion under section 731.106(b) of title 5, Code of Fed-  
8 eral Regulations, or any successor regulation;

9           “(8) the term ‘juvenile’ means—

10           “(A) except as provided in subparagraph  
11 (B), a person who has not attained the age of 18  
12 years; and

13           “(B) for the purpose of proceedings and dis-  
14 position under this chapter for an alleged act of  
15 juvenile delinquency, a person who has not at-  
16 tained the age of 21 years;

17           “(9) the term ‘juvenile delinquency’ means the  
18 violation of a law of the United States committed by  
19 a person before attaining the age of 18 years which  
20 would have been a crime if committed by an adult,  
21 or a violation by such a person of section 922(x);

22           “(10) the term ‘juvenile nonviolent offense’  
23 means—

24           “(A) in the case of an arrest or an adju-  
25 dication that is dismissed or finds the juvenile to

1           *be not delinquent, an act of juvenile delinquency*  
2           *that is not—*

3                   “(i) a criminal homicide, forcible rape  
4                   or any other sex offense (as defined in sec-  
5                   tion 111 of the Sex Offender Registration  
6                   and Notification Act (42 U.S.C. 16911)),  
7                   kidnapping, aggravated assault, robbery,  
8                   burglary of an occupied structure, arson, or  
9                   a drug trafficking crime in which a firearm  
10                  was used; or

11                   “(ii) a Federal crime of terrorism (as  
12                   defined in section 2332b(g)); and

13                  “(B) in the case of an adjudication that  
14                  finds the juvenile to be delinquent, an act of ju-  
15                  venile delinquency that is not—

16                   “(i) described in clause (i) or (ii) of  
17                   subparagraph (A); or

18                   “(ii) a misdemeanor crime of domestic  
19                   violence (as defined in section 921(a)(33));

20                  “(11) the term ‘juvenile record’—

21                   “(A) means a record maintained by a court,  
22                   the probation system, a law enforcement agency,  
23                   or any other government agency, of the juvenile  
24                   delinquency proceedings of a person;

25                   “(B) includes—

1           “(i) a juvenile legal file, including a  
2 formal document such as a petition, notice,  
3 motion, legal memorandum, order, or de-  
4 cree;

5           “(ii) a social record, including—

6               “(I) a record of a probation offi-  
7 cer;

8               “(II) a record of any government  
9 agency that keeps records relating to  
10 juvenile delinquency;

11               “(III) a medical record;

12               “(IV) a psychiatric or psycho-  
13 logical record;

14               “(V) a birth certificate;

15               “(VI) an education record, includ-  
16 ing an individualized education plan;

17               “(VII) a detention record;

18               “(VIII) demographic information  
19 that identifies a juvenile or the family  
20 of a juvenile; or

21               “(IX) any other record that in-  
22 cludes personally identifiable informa-  
23 tion that may be associated with a ju-  
24 venile delinquency proceeding, an act



1                   of juvenile delinquency, or an alleged  
2                   act of juvenile delinquency; and

3                   “(iii) a law enforcement record, in-  
4                   cluding a photograph or a State criminal  
5                   justice information system record; and

6                   “(C) does not include—

7                   “(i) fingerprints; or

8                   “(ii) a DNA sample;

9                   “(12) the term ‘petitioner’ means a person who  
10                  files an expungement petition or a sealing petition;

11                  “(13) the term ‘seal’ means—

12                  “(A) to close a record from public viewing  
13                  so that the record cannot be examined except as  
14                  otherwise provided under section 5043; and

15                  “(B) to physically seal the record shut and  
16                  label the record ‘SEALED’ or, in the case of an  
17                  electronic record, the substantive equivalent;

18                  “(14) the term ‘sealing hearing’ means a hearing  
19                  held under section 5043(b)(2)(B); and

20                  “(15) the term ‘sealing petition’ means a peti-  
21                  tion for a sealing order filed under section 5043(b).”.

22                  (c) *CONFIDENTIALITY*.—Section 5038 of title 18,  
23                  *United States Code*, is amended—

24                  (1) in subsection (a), in the flush text following  
25                  paragraph (6), by inserting after “bonding,” the fol-

1        *lowing: “participation in an educational system,”;*  
 2        *and*

3                *(2) in subsection (b), by striking “District courts*  
 4        *exercising jurisdiction over any juvenile” and insert-*  
 5        *ing the following: “Not later than 7 days after the*  
 6        *date on which a district court exercises jurisdiction*  
 7        *over a juvenile, the district court”.*

8        *(d) SEALING; EXPUNGEMENT.—*

9                *(1) IN GENERAL.—Chapter 403 of title 18,*  
 10        *United States Code, is amended by adding at the end*  
 11        *the following:*

12        **“§ 5043. Sealing**

13                *“(a) AUTOMATIC SEALING OF NONVIOLENT OF-*  
 14        *FENSES.—*

15                *“(1) IN GENERAL.—Three years after the date on*  
 16        *which a person who is adjudicated delinquent under*  
 17        *this chapter for a juvenile nonviolent offense completes*  
 18        *every term of probation, official detention, or juvenile*  
 19        *delinquent supervision ordered by the court with re-*  
 20        *spect to the offense, the court shall order the sealing*  
 21        *of each juvenile record or portion thereof that relates*  
 22        *to the offense if the person—*

23                *“(A) has not been convicted of a crime or*  
 24                *adjudicated delinquent for an act of juvenile de-*  
 25                *linquency since the date of the disposition; and*

1           “(B) is not engaged in active criminal court  
2           proceedings or juvenile delinquency proceedings.

3           “(2) *AUTOMATIC NATURE OF SEALING.*—The  
4           order of sealing under paragraph (1) shall require no  
5           action by the person whose juvenile records are to be  
6           sealed.

7           “(3) *NOTICE OF AUTOMATIC SEALING.*—A court  
8           that orders the sealing of a juvenile record of a person  
9           under paragraph (1) shall, in writing, inform the  
10          person of the sealing and the benefits of sealing the  
11          record.

12          “(b) *PETITIONING FOR EARLY SEALING OF NON-*  
13 *VIOLENT OFFENSES.*—

14           “(1) *RIGHT TO FILE SEALING PETITION.*—

15           “(A) *IN GENERAL.*—During the 3-year pe-  
16           riod beginning on the date on which a person  
17           who is adjudicated delinquent under this chapter  
18           for a juvenile nonviolent offense completes every  
19           term of probation, official detention, or juvenile  
20           delinquent supervision ordered by the court with  
21           respect to the offense, the person may petition the  
22           court to seal the juvenile records that relate to  
23           the offense unless the person—

24                   “(i) has been convicted of a crime or  
25                   adjudicated delinquent for an act of juvenile

1           *delinquency since the date of the disposi-*  
2           *tion; or*

3           “(ii) *is engaged in active criminal*  
4           *court proceedings or juvenile delinquency*  
5           *proceedings.*

6           “(B) *NOTICE OF OPPORTUNITY TO FILE PE-*  
7           *TITION.—If a person is adjudicated delinquent*  
8           *for a juvenile nonviolent offense, the court in*  
9           *which the person is adjudicated delinquent shall,*  
10          *in writing, inform the person of the potential eli-*  
11          *gibility of the person to file a sealing petition*  
12          *with respect to the offense upon completing every*  
13          *term of probation, official detention, or juvenile*  
14          *delinquent supervision ordered by the court with*  
15          *respect to the offense, and the necessary proce-*  
16          *dures for filing the sealing petition—*

17                “(i) *on the date on which the indi-*  
18                *vidual is adjudicated delinquent; and*

19                “(ii) *on the date on which the indi-*  
20                *vidual has completed every term of proba-*  
21                *tion, official detention, or juvenile delin-*  
22                *quent supervision ordered by the court with*  
23                *respect to the offense.*

24           “(2) *PROCEDURES.—*

1           “(A) *NOTIFICATION TO PROSECUTOR.*—If a  
2           *person files a sealing petition with respect to a*  
3           *juvenile nonviolent offense, the court in which*  
4           *the petition is filed shall provide notice of the pe-*  
5           *tion—*

6                     “(i) *to the Attorney General; and*

7                     “(ii) *upon the request of the petitioner,*  
8           *to any other individual that the petitioner*  
9           *determines may testify as to—*

10                    “(I) *the conduct of the petitioner*  
11           *since the date of the offense; or*

12                    “(II) *the reasons that the sealing*  
13           *order should be entered.*

14           “(B) *HEARING.*—

15                    “(i) *IN GENERAL.*—If a person files a  
16           *sealing petition, the court shall—*

17                    “(I) *except as provided in clause*  
18           *(iii), conduct a hearing in accordance*  
19           *with clause (ii); and*

20                    “(II) *determine whether to enter a*  
21           *sealing order for the person in accord-*  
22           *ance with subparagraph (C).*

23                    “(ii) *OPPORTUNITY TO TESTIFY AND*  
24           *OFFER EVIDENCE.*—

1                   “(I) *PETITIONER.*—*The petitioner*  
2                   *may testify or offer evidence at the*  
3                   *sealing hearing in support of sealing.*

4                   “(II) *PROSECUTOR.*—*The Attor-*  
5                   *ney General may send a representative*  
6                   *to testify or offer evidence at the seal-*  
7                   *ing hearing in support of or against*  
8                   *sealing.*

9                   “(III) *OTHER INDIVIDUALS.*—*An*  
10                   *individual who receives notice under*  
11                   *subparagraph (A)(ii) may testify or*  
12                   *offer evidence at the sealing hearing as*  
13                   *to the issues described in subclauses (I)*  
14                   *and (II) of that subparagraph.*

15                   “(iii) *WAIVER OF HEARING.*—*If the pe-*  
16                   *titioner and the Attorney General so agree,*  
17                   *the court shall make a determination under*  
18                   *subparagraph (C) without a hearing.*

19                   “(C) *BASIS FOR DECISION.*—*The court shall*  
20                   *determine whether to grant the sealing petition*  
21                   *after considering—*

22                                    “(i) *the sealing petition and any docu-*  
23                                    *ments in the possession of the court;*

1           “(ii) all the evidence and testimony  
2           presented at the sealing hearing, if such a  
3           hearing is conducted;

4           “(iii) the best interests of the peti-  
5           tioner;

6           “(iv) the age of the petitioner during  
7           his or her contact with the court or any law  
8           enforcement agency;

9           “(v) the nature of the juvenile non-  
10          violent offense;

11          “(vi) the disposition of the case;

12          “(vii) the manner in which the peti-  
13          tioner participated in any court-ordered re-  
14          habilitative programming or supervised  
15          services;

16          “(viii) the length of the time period  
17          during which the petitioner has been with-  
18          out contact with any court or law enforce-  
19          ment agency;

20          “(ix) whether the petitioner has had  
21          any criminal or juvenile delinquency in-  
22          volvement since the disposition of the juve-  
23          nile delinquency proceeding; and

1           “(x) the adverse consequences the peti-  
2           tioner may suffer if the petition is not  
3           granted.

4           “(D) *WAITING PERIOD AFTER DENIAL.*—If  
5           the court denies a sealing petition, the petitioner  
6           may not file a new sealing petition with respect  
7           to the same juvenile nonviolent offense until the  
8           date that is 2 years after the date of the denial.

9           “(E) *UNIVERSAL FORM.*—The Director of  
10          the Administrative Office of the United States  
11          Courts shall create a universal form, available  
12          over the Internet and in paper form, that an in-  
13          dividual may use to file a sealing petition.

14          “(F) *NO FEE FOR INDIGENT PETI-*  
15          *TIONERS.*—If the court determines that the peti-  
16          tioner is indigent, there shall be no cost for filing  
17          a sealing petition.

18          “(G) *REPORTING.*—Not later than 2 years  
19          after the date of enactment of this section, and  
20          each year thereafter, the Director of the Adminis-  
21          trative Office of the United States Courts shall  
22          issue a public report that—

23                 “(i) describes—



1           “(I) *the number of sealing peti-*  
 2           *tions granted and denied under this*  
 3           *subsection; and*

4           “(II) *the number of instances in*  
 5           *which the Attorney General supported*  
 6           *or opposed a sealing petition;*

7           “(ii) *includes any supporting data*  
 8           *that the Director determines relevant and*  
 9           *that does not name any petitioner; and*

10           “(iii) *disaggregates all relevant data*  
 11           *by race, ethnicity, gender, and the nature of*  
 12           *the offense.*

13           “(H) *PUBLIC DEFENDER ELIGIBILITY.—*

14           “(i) *PETITIONERS UNDER AGE 18.—*  
 15           *The district court shall appoint counsel in*  
 16           *accordance with the plan of the district*  
 17           *court in operation under section 3006A to*  
 18           *represent a petitioner for purposes of this*  
 19           *subsection if the petitioner is less than 18*  
 20           *years of age.*

21           “(ii) *PETITIONERS AGE 18 AND*  
 22           *OLDER.—*

23           “(I) *DISCRETION OF COURT.—In*  
 24           *the case of a petitioner who is not less*  
 25           *than 18 years of age, the district court*

1           *may, in its discretion, appoint counsel*  
2           *in accordance with the plan of the dis-*  
3           *trict court in operation under section*  
4           *3006A to represent the petitioner for*  
5           *purposes of this subsection.*

6           “(II) *CONSIDERATIONS.—In de-*  
7           *termining whether to appoint counsel*  
8           *under subclause (I), the court shall*  
9           *consider—*

10           “(aa) *the anticipated com-*  
11           *plexity of the sealing hearing, in-*  
12           *cluding the number and type of*  
13           *witnesses called to advocate*  
14           *against the sealing of the records*  
15           *of the petitioner; and*

16           “(bb) *the potential for ad-*  
17           *verse testimony by a victim or a*  
18           *representative of the Attorney*  
19           *General.*

20           “(c) *EFFECT OF SEALING ORDER.—*

21           “(1) *PROTECTION FROM DISCLOSURE.—Except*  
22           *as provided in paragraphs (3) and (4), if a court or-*  
23           *ders the sealing of a juvenile record of a person under*  
24           *subsection (a) or (b) with respect to a juvenile non-*  
25           *violent offense, the proceedings in the case shall be*

1 *deemed never to have occurred, and the person may*  
2 *properly reply accordingly to any inquiry about the*  
3 *events the records of which are ordered sealed.*

4 “(2) *VERIFICATION OF SEALING.—If a court or-*  
5 *ders the sealing of a juvenile record under subsection*  
6 *(a) or (b) with respect to a juvenile nonviolent offense,*  
7 *the court shall—*

8 “(A) *send a copy of the sealing order to*  
9 *each entity or person known to the court that*  
10 *possesses a record relating to the offense, includ-*  
11 *ing each—*

12 “(i) *law enforcement agency; and*

13 “(ii) *public or private correctional or*  
14 *detention facility;*

15 “(B) *in the sealing order, require each enti-*  
16 *ty or person described in subparagraph (A) to—*

17 “(i) *seal the record; and*

18 “(ii) *submit a written certification to*  
19 *the court, under penalty of perjury, that the*  
20 *entity or person has sealed each paper and*  
21 *electronic copy of the record;*

22 “(C) *seal each paper and electronic copy of*  
23 *the record in the possession of the court; and*

24 “(D) *after receiving a written certification*  
25 *from each entity or person under subparagraph*

1           *(B)(ii), notify the petitioner that each entity or*  
2           *person described in subparagraph (A) has sealed*  
3           *each paper and electronic copy of the record.*

4           “(3) *LAW ENFORCEMENT ACCESS TO SEALED*  
5           *RECORDS.—*

6           “(A) *IN GENERAL.—Except as provided in*  
7           *subparagraph (B), a law enforcement agency*  
8           *may access a sealed juvenile record in the posses-*  
9           *sion of the agency or another law enforcement*  
10           *agency solely—*

11                   “(i) *to determine whether the person*  
12                   *who is the subject of the record is a non-*  
13                   *violent offender eligible for a first-time-of-*  
14                   *fender diversion program;*

15                   “(ii) *for investigatory or prosecutorial*  
16                   *purposes; or*

17                   “(iii) *for a background check that re-*  
18                   *lates to—*

19                           “(I) *law enforcement employment;*

20                           *or*

21                           “(II) *any position that a Federal*  
22                           *agency designates as a—*

23                                   “(aa) *national security posi-*  
24                                   *tion; or*

1                                   “(bb) *high-risk, public trust*  
2                                   *position.*

3                                   “(B) *TRANSITION PERIOD.*—*During the 1-*  
4                                   *year period beginning on the date on which a*  
5                                   *court orders the sealing of a juvenile record*  
6                                   *under this section, a law enforcement agency*  
7                                   *may, for law enforcement purposes, access the*  
8                                   *record if it is in the possession of the agency or*  
9                                   *another law enforcement agency.*

10                                  “(4) *PROHIBITION ON DISCLOSURE.*—

11                                  “(A) *PROHIBITION.*—*Except as provided in*  
12                                  *subparagraph (C), it shall be unlawful to inten-*  
13                                  *tionally make or attempt to make an unauthor-*  
14                                  *ized disclosure of any information from a sealed*  
15                                  *juvenile record in violation of this section.*

16                                  “(B) *PENALTY.*—*Any person who violates*  
17                                  *subparagraph (A) shall be fined under this title,*  
18                                  *imprisoned for not more than 1 year, or both.*

19                                  “(C) *EXCEPTIONS.*—

20                                  “(i) *BACKGROUND CHECKS.*—*In the*  
21                                  *case of a background check for law enforce-*  
22                                  *ment employment or for any employment*  
23                                  *that requires a government security clear-*  
24                                  *ance—*

1           “(I) a person who is the subject of  
2           a juvenile record sealed under this sec-  
3           tion shall disclose the contents of the  
4           record; and

5           “(II) a law enforcement agency  
6           that possesses a juvenile record sealed  
7           under this section—

8           “(aa) may disclose the con-  
9           tents of the record; and

10          “(bb) if the agency obtains or  
11          is subject to a court order author-  
12          izing disclosure of the record, may  
13          disclose the record.

14          “(ii)    DISCLOSURE    TO    ARMED  
15          FORCES.—A person, including a law en-  
16          forcement agency that possesses a juvenile  
17          record sealed under this section, may dis-  
18          close information from a juvenile record  
19          sealed under this section to the Secretaries  
20          of the military departments (or the Sec-  
21          retary of Homeland Security with respect to  
22          the Coast Guard when it is not operating as  
23          a service in the Navy) for the purpose of  
24          vetting an enlistment or commission, or

1           *with regard to any member of the Armed*  
2           *Forces.*

3           “(iii) *CRIMINAL AND JUVENILE PRO-*  
4           *CEEDINGS.—A prosecutor or other law en-*  
5           *forcement officer may disclose information*  
6           *from a juvenile record sealed under this sec-*  
7           *tion, and a person who is the subject of a*  
8           *juvenile record sealed under this section*  
9           *may be required to testify or otherwise dis-*  
10           *close information about the record, in a*  
11           *criminal or other proceeding if such disclo-*  
12           *sure is required by the Constitution of the*  
13           *United States, the constitution of a State,*  
14           *or a Federal or State statute or rule.*

15           “(iv) *AUTHORIZATION FOR PERSON TO*  
16           *DISCLOSE OWN RECORD.—A person who is*  
17           *the subject of a juvenile record sealed under*  
18           *this section may choose to disclose the*  
19           *record.*

20           “(d) *LIMITATION RELATING TO SUBSEQUENT INCI-*  
21           *DENTS.—*

22           “(1) *AFTER FILING AND BEFORE PETITION*  
23           *GRANTED.—If, after the date on which a person files*  
24           *a sealing petition with respect to a juvenile offense*  
25           *and before the court determines whether to grant the*

1        *petition, the person is convicted of a crime, adju-*  
 2        *dicated delinquent for an act of juvenile delinquency,*  
 3        *or engaged in active criminal court proceedings or ju-*  
 4        *venile delinquency proceedings, the court shall deny*  
 5        *the petition.*

6                *“(2) AFTER PETITION GRANTED.—If, on or after*  
 7        *the date on which a court orders the sealing of a juve-*  
 8        *nile record of a person under subsection (b), the per-*  
 9        *son is convicted of a crime or adjudicated delinquent*  
 10        *for an act of juvenile delinquency—*

11                *“(A) the court shall—*

12                        *“(i) vacate the order; and*

13                        *“(ii) notify the person who is the sub-*  
 14                        *ject of the juvenile record, and each entity*  
 15                        *or person described in subsection (c)(2)(A),*  
 16                        *that the order has been vacated; and*

17                *“(B) the record shall no longer be sealed.*

18                *“(e) INCLUSION OF STATE JUVENILE DELINQUENCY*  
 19        *ADJUDICATIONS AND PROCEEDINGS.—For purposes of sub-*  
 20        *paragraphs (A) and (B) of subsection (a)(1), clauses (i) and*  
 21        *(ii) of subsection (b)(1)(A), and paragraphs (1) and (2) of*  
 22        *subsection (d), the term ‘juvenile delinquency’ includes the*  
 23        *violation of a law of a State committed by a person before*  
 24        *attaining the age of 18 years which would have been a crime*  
 25        *if committed by an adult.*



1 **“§ 5044. Expungement**

2       “(a) *AUTOMATIC EXPUNGEMENT OF CERTAIN*  
3 *RECORDS.*—

4               “(1) *ATTORNEY GENERAL MOTION.*—

5                       “(A) *NONVIOLENT OFFENSES COMMITTED*  
6 *BEFORE A PERSON TURNED 15.*—*If a person is*  
7 *adjudicated delinquent under this chapter for a*  
8 *juvenile nonviolent offense committed before the*  
9 *person attained 15 years of age and completes*  
10 *every term of probation, official detention, or ju-*  
11 *venile delinquent supervision ordered by the*  
12 *court with respect to the offense before attaining*  
13 *18 years of age, on the date on which the person*  
14 *attains 18 years of age, the Attorney General*  
15 *shall file a motion in the district court of the*  
16 *United States in which the person was adju-*  
17 *dicated delinquent requesting that each juvenile*  
18 *record of the person that relates to the offense be*  
19 *expunged.*

20                       “(B) *ARRESTS.*—*If a juvenile is arrested by*  
21 *a Federal law enforcement agency for a juvenile*  
22 *nonviolent offense for which a juvenile delin-*  
23 *quency proceeding is not instituted under this*  
24 *chapter, and for which the United States does*  
25 *not proceed against the juvenile as an adult in*  
26 *a district court of the United States, the Attor-*

1            *ney General shall file a motion in the district*  
2            *court of the United States that would have had*  
3            *jurisdiction of the proceeding requesting that*  
4            *each juvenile record relating to the arrest be ex-*  
5            *punged.*

6            *“(C) EXPUNGEMENT ORDER.—Upon the fil-*  
7            *ing of a motion in a district court of the United*  
8            *States with respect to a juvenile nonviolent of-*  
9            *fense under subparagraph (A) or an arrest for a*  
10           *juvenile nonviolent offense under subparagraph*  
11           *(B), the court shall grant the motion and order*  
12           *that each juvenile record relating to the offense*  
13           *or arrest, as applicable, be expunged.*

14           *“(2) DISMISSED CASES.—If a district court of*  
15           *the United States dismisses an information with re-*  
16           *spect to a juvenile under this chapter or finds a juve-*  
17           *nile not to be delinquent in a juvenile delinquency*  
18           *proceeding under this chapter, the court shall concu-*  
19           *rently order that each juvenile record relating to the*  
20           *applicable proceeding be expunged.*

21           *“(3) AUTOMATIC NATURE OF EXPUNGEMENT.—*  
22           *An order of expungement under paragraph (1)(C) or*  
23           *(2) shall not require any action by the person whose*  
24           *records are to be expunged.*

1           “(4) *NOTICE OF AUTOMATIC EXPUNGEMENT.*—A  
 2           *court that orders the expungement of a juvenile record*  
 3           *of a person under paragraph (1)(C) or (2) shall, in*  
 4           *writing, inform the person of the expungement and*  
 5           *the benefits of expunging the record.*

6           “(b) *PETITIONING FOR EXPUNGEMENT OF NON-*  
 7           *VIOLENT OFFENSES.*—

8           “(1) *IN GENERAL.*—A person who is adjudicated  
 9           *delinquent under this chapter for a juvenile non-*  
 10           *violent offense committed on or after the date on*  
 11           *which the person attained 15 years of age may peti-*  
 12           *tion the court in which the proceeding took place to*  
 13           *order the expungement of the juvenile record that re-*  
 14           *lates to the offense unless the person—*

15                   “(A) *has been convicted of a crime or adju-*  
 16                   *dicated delinquent for an act of juvenile delin-*  
 17                   *quency since the date of the disposition;*

18                   “(B) *is engaged in active criminal court*  
 19                   *proceedings or juvenile delinquency proceedings;*  
 20                   *or*

21                   “(C) *has had not less than 2 adjudications*  
 22                   *of delinquency previously expunged under this*  
 23                   *section.*

24           “(2) *PROCEDURES.*—

1           “(A) *NOTIFICATION OF PROSECUTOR AND*  
2           *VICTIMS.—If a person files an expungement peti-*  
3           *tion with respect to a juvenile nonviolent offense,*  
4           *the court in which the petition is filed shall pro-*  
5           *vide notice of the petition—*

6                     “(i) *to the Attorney General; and*

7                     “(ii) *upon the request of the petitioner,*  
8           *to any other individual that the petitioner*  
9           *determines may testify as to—*

10                    “(I) *the conduct of the petitioner*  
11           *since the date of the offense; or*

12                    “(II) *the reasons that the*  
13           *expungement order should be entered.*

14           “(B) *HEARING.—*

15                    “(i) *IN GENERAL.—If a person files an*  
16           *expungement petition, the court shall—*

17                    “(I) *except as provided in clause*  
18           *(iii), conduct a hearing in accordance*  
19           *with clause (ii); and*

20                    “(II) *determine whether to enter*  
21           *an expungement order for the person*  
22           *in accordance with subparagraph (C).*

23                    “(ii) *OPPORTUNITY TO TESTIFY AND*  
24           *OFFER EVIDENCE.—*

1                   “(I) *PETITIONER.*—*The petitioner*  
2                   *may testify or offer evidence at the*  
3                   *expungement hearing in support of*  
4                   *expungement.*

5                   “(II) *PROSECUTOR.*—*The Attor-*  
6                   *ney General may send a representative*  
7                   *to testify or offer evidence at the*  
8                   *expungement hearing in support of or*  
9                   *against expungement.*

10                   “(III) *OTHER INDIVIDUALS.*—*An*  
11                   *individual who receives notice under*  
12                   *subparagraph (A)(i) may testify or*  
13                   *offer evidence at the expungement hear-*  
14                   *ing as to the issues described in sub-*  
15                   *clauses (I) and (II) of that subpara-*  
16                   *graph.*

17                   “(C) *BASIS FOR DECISION.*—*The court shall*  
18                   *determine whether to grant an expungement pe-*  
19                   *tition after considering—*

20                    “(i) *the petition and any documents in*  
21                    *the possession of the court;*

22                    “(ii) *all the evidence and testimony*  
23                    *presented at the expungement hearing, if*  
24                    *such a hearing is conducted;*

1           “(iii) the best interests of the peti-  
2           tioner;

3           “(iv) the age of the petitioner during  
4           his or her contact with the court or any law  
5           enforcement agency;

6           “(v) the nature of the juvenile non-  
7           violent offense;

8           “(vi) the disposition of the case;

9           “(vii) the manner in which the peti-  
10          tioner participated in any court-ordered re-  
11          habilitative programming or supervised  
12          services;

13          “(viii) the length of the time period  
14          during which the petitioner has been with-  
15          out contact with any court or any law en-  
16          forcement agency;

17          “(ix) whether the petitioner has had  
18          any criminal or juvenile delinquency in-  
19          volvement since the disposition of the juve-  
20          nile delinquency proceeding; and

21          “(x) the adverse consequences the peti-  
22          tioner may suffer if the petition is not  
23          granted.

24          “(D) WAITING PERIOD AFTER DENIAL.—If  
25          the court denies an expungement petition, the pe-

1            *petitioner may not file a new expungement peti-*  
2            *tion with respect to the same offense until the*  
3            *date that is 2 years after the date of the denial.*

4            “(E) *UNIVERSAL FORM.—The Director of*  
5            *the Administrative Office of the United States*  
6            *Courts shall create a universal form, available*  
7            *over the Internet and in paper form, that an in-*  
8            *dividual may use to file an expungement peti-*  
9            *tion.*

10           “(F) *NO FEE FOR INDIGENT PETI-*  
11           *TIONERS.—If the court determines that the peti-*  
12           *tioner is indigent, there shall be no cost for filing*  
13           *an expungement petition.*

14           “(G) *REPORTING.—Not later than 2 years*  
15           *after the date of enactment of this section, and*  
16           *each year thereafter, the Director of the Adminis-*  
17           *trative Office of the United States Courts shall*  
18           *issue a public report that—*

19           “(i) *describes—*

20           “(I) *the number of expungement*  
21           *petitions granted and denied under*  
22           *this subsection; and*

23           “(II) *the number of instances in*  
24           *which the Attorney General supported*  
25           *or opposed an expungement petition;*

1           “(ii) includes any supporting data  
2 that the Director determines relevant and  
3 that does not name any petitioner; and

4           “(iii) disaggregates all relevant data  
5 by race, ethnicity, gender, and the nature of  
6 the offense.

7           “(H) PUBLIC DEFENDER ELIGIBILITY.—

8           “(i) PETITIONERS UNDER AGE 18.—  
9 The district court shall appoint counsel in  
10 accordance with the plan of the district  
11 court in operation under section 3006A to  
12 represent a petitioner for purposes of this  
13 subsection if the petitioner is less than 18  
14 years of age.

15           “(ii) PETITIONERS AGE 18 AND  
16 OLDER.—

17           “(I) DISCRETION OF COURT.—In  
18 the case of a petitioner who is not less  
19 than 18 years of age, the district court  
20 may, in its discretion, appoint counsel  
21 in accordance with the plan of the dis-  
22 trict court in operation under section  
23 3006A to represent the petitioner for  
24 purposes of this subsection.



1                   “(II) *CONSIDERATIONS.*—*In de-*  
2                   *termining whether to appoint counsel*  
3                   *under subclause (I), the court shall*  
4                   *consider—*

5                   “(aa) *the anticipated com-*  
6                   *plexity of the expungement hear-*  
7                   *ing, including the number and*  
8                   *type of witnesses called to advo-*  
9                   *cate against the expungement of*  
10                  *the records of the petitioner; and*

11                  “(bb) *the potential for ad-*  
12                  *verse testimony by a victim or a*  
13                  *representative of the Attorney*  
14                  *General.*

15                  “(c) *EFFECT OF EXPUNGED JUVENILE RECORD.*—

16                  “(1) *PROTECTION FROM DISCLOSURE.*—*Except*  
17                  *as provided in paragraphs (4) through (8), if a court*  
18                  *orders the expungement of a juvenile record of a per-*  
19                  *son under subsection (a) or (b) with respect to a juve-*  
20                  *nile nonviolent offense, the proceedings in the case*  
21                  *shall be deemed never to have occurred, and the per-*  
22                  *son may properly reply accordingly to any inquiry*  
23                  *about the events the records of which are ordered*  
24                  *sealed.*

1           “(2) *VERIFICATION OF EXPUNGEMENT.*—If a  
2           *court orders the expungement of a juvenile record*  
3           *under subsection (a) or (b) with respect to a juvenile*  
4           *nonviolent offense, the court shall—*

5                   “(A) *send a copy of the expungement order*  
6                   *to each entity or person known to the court that*  
7                   *possesses a record relating to the offense, includ-*  
8                   *ing each—*

9                           “(i) *law enforcement agency; and*

10                           “(ii) *public or private correctional or*  
11                           *detention facility;*

12                   “(B) *in the expungement order—*

13                           “(i) *require each entity or person de-*  
14                           *scribed in subparagraph (A) to—*

15                                   “(I) *seal the record for 1 year*  
16                                   *and, during that 1-year period, apply*  
17                                   *paragraphs (3) and (4) of section*  
18                                   *5043(c) with respect to the record;*

19                                   “(II) *on the date that is 1 year*  
20                                   *after the date of the order, destroy the*  
21                                   *record unless a subsequent incident de-*  
22                                   *scribed in subsection (d)(2) occurs; and*

23                                   “(III) *submit a written certifi-*  
24                                   *cation to the court, under penalty of*  
25                                   *perjury, that the entity or person has*

1           *destroyed each paper and electronic*  
2           *copy of the record; and*

3           “(ii) *explain that if a subsequent inci-*  
4           *dent described in subsection (d)(2) occurs,*  
5           *the order shall be vacated and the record*  
6           *shall no longer be sealed;*

7           “(C) *on the date that is 1 year after the*  
8           *date of the order, destroy each paper and elec-*  
9           *tronic copy of the record in the possession of the*  
10          *court unless a subsequent incident described in*  
11          *subsection (d)(2) occurs; and*

12          “(D) *after receiving a written certification*  
13          *from each entity or person under subparagraph*  
14          *(B)(i)(III), notify the petitioner that each entity*  
15          *or person described in subparagraph (A) has de-*  
16          *stroyed each paper and electronic copy of the*  
17          *record.*

18          “(3) *REPLY TO INQUIRIES.—On and after the*  
19          *date that is 1 year after the date on which a court*  
20          *orders the expungement of a juvenile record of a per-*  
21          *son under this section, in the case of an inquiry relat-*  
22          *ing to the juvenile record, the court, each law enforce-*  
23          *ment officer, any agency that provided treatment or*  
24          *rehabilitation services to the person, and the person*  
25          *(except as provided in paragraphs (4) through (8))*

1       *shall reply to the inquiry that no such juvenile record*  
2       *exists.*

3           “(4) *CIVIL ACTIONS.*—

4                   “(A) *IN GENERAL.*—*On and after the date*  
5                   *on which a court orders the expungement of a ju-*  
6                   *venile record of a person under this section, if*  
7                   *the person brings an action against a law en-*  
8                   *forcement agency that arrested, or participated*  
9                   *in the arrest of, the person for the offense to*  
10                   *which the record relates, or against the State or*  
11                   *political subdivision of a State of which the law*  
12                   *enforcement agency is an agency, in which the*  
13                   *contents of the record are relevant to the resolu-*  
14                   *tion of the issues presented in the action, there*  
15                   *shall be a rebuttable presumption that the de-*  
16                   *fendant has a complete defense to the action.*

17                   “(B) *SHOWING BY PLAINTIFF.*—*In an ac-*  
18                   *tion described in subparagraph (A), the plaintiff*  
19                   *may rebut the presumption of a complete defense*  
20                   *by showing that the contents of the expunged*  
21                   *record would not prevent the defendant from*  
22                   *being held liable.*

23                   “(C) *DUTY TO TESTIFY AS TO EXISTENCE*  
24                   *OF RECORD.*—*The court in which an action de-*  
25                   *scribed in subparagraph (A) is filed may require*

1           the plaintiff to state under oath whether the  
2           plaintiff had a juvenile record and whether the  
3           record was expunged.

4           “(D) *PROOF OF EXISTENCE OF JUVENILE*  
5           *RECORD.*—If the plaintiff in an action described  
6           in subparagraph (A) denies the existence of a ju-  
7           venile record, the defendant may prove the exist-  
8           ence of the record in any manner compatible  
9           with the applicable laws of evidence.

10          “(5) *CRIMINAL AND JUVENILE PROCEEDINGS.*—  
11          On and after the date that is 1 year after the date  
12          on which a court orders the expungement of a juvenile  
13          record under this section, a prosecutor or other law  
14          enforcement officer may disclose underlying informa-  
15          tion from the juvenile record, and the person who is  
16          the subject of the juvenile record may be required to  
17          testify or otherwise disclose information about the  
18          record, in a criminal or other proceeding if such dis-  
19          closure is required by the Constitution of the United  
20          States, the constitution of a State, or a Federal or  
21          State statute or rule.

22          “(6) *BACKGROUND CHECKS.*—On and after the  
23          date that is 1 year after the date on which a court  
24          orders the expungement of a juvenile record under this  
25          section, in the case of a background check for law en-

1       *forcement employment or for any employment that re-*  
2       *quires a government security clearance, the person*  
3       *who is the subject of the juvenile record may be re-*  
4       *quired to disclose underlying information from the*  
5       *record.*

6               “(7) *DISCLOSURE TO ARMED FORCES.*—*On and*  
7       *after the date that is 1 year after the date on which*  
8       *a court orders the expungement of a juvenile record*  
9       *under this section, a person, including a law enforce-*  
10       *ment agency that possessed such a juvenile record,*  
11       *may be required to disclose underlying information*  
12       *from the record to the Secretaries of the military de-*  
13       *partments (or the Secretary of Homeland Security*  
14       *with respect to the Coast Guard when it is not oper-*  
15       *ating as a service in the Navy) for the purpose of vet-*  
16       *ting an enlistment or commission, or with regard to*  
17       *any member of the Armed Forces.*

18               “(8) *AUTHORIZATION FOR PERSON TO DISCLOSE*  
19       *OWN RECORD.*—*A person who is the subject of a juve-*  
20       *nile record expunged under this section may choose to*  
21       *disclose the record.*

22               “(9) *TREATMENT AS SEALED RECORD DURING*  
23       *TRANSITION PERIOD.*—*During the 1-year period be-*  
24       *ginning on the date on which a court orders the*  
25       *expungement of a juvenile record under this section,*

1        *paragraphs (3) and (4) of section 5043(c) shall apply*  
2        *with respect to the record as if the record had been*  
3        *sealed under that section.*

4        *“(d) LIMITATION RELATING TO SUBSEQUENT INCI-*  
5        *DENTS.—*

6                *“(1) AFTER FILING AND BEFORE PETITION*  
7        *GRANTED.—If, after the date on which a person files*  
8        *an expungement petition with respect to a juvenile of-*  
9        *fense and before the court determines whether to grant*  
10       *the petition, the person is convicted of a crime, adju-*  
11       *dicated delinquent for an act of juvenile delinquency,*  
12       *or engaged in active criminal court proceedings or ju-*  
13       *venile delinquency proceedings, the court shall deny*  
14       *the petition.*

15               *“(2) AFTER PETITION GRANTED.—If, on or after*  
16       *the date on which a court orders the expungement of*  
17       *a juvenile record of a person under subsection (b), the*  
18       *person is convicted of a crime, adjudicated delinquent*  
19       *for an act of juvenile delinquency, or engaged in ac-*  
20       *tive criminal court proceedings or juvenile delin-*  
21       *quency proceedings—*

22                        *“(A) the court that ordered the expungement*  
23       *shall—*

24                                *“(i) vacate the order; and*

1                   “(ii) notify the person who is the sub-  
 2                   ject of the juvenile record, and each entity  
 3                   or person described in subsection (c)(2)(A),  
 4                   that the order has been vacated; and  
 5                   “(B) the record shall no longer be sealed.

6           “(e) *INCLUSION OF STATE JUVENILE DELINQUENCY*  
 7 *ADJUDICATIONS AND PROCEEDINGS.*—For purposes of sub-  
 8 paragraphs (A) and (B) of subsection (b)(1) and para-  
 9 graphs (1) and (2) of subsection (d), the term ‘juvenile de-  
 10 linquency’ includes the violation of a law of a State com-  
 11 mitted by a person before attaining the age of 18 years  
 12 which would have been a crime if committed by an adult.”.

13                   (2) *TECHNICAL AND CONFORMING AMEND-*  
 14 *MENT.*—The table of sections for chapter 403 of title  
 15 18, United States Code, is amended by adding at the  
 16 end the following:

“5043. Sealing.

“5044. Expungement.”.

17                   (3) *APPLICABILITY.*—Sections 5043 and 5044 of  
 18 title 18, United States Code, as added by paragraph  
 19 (1), shall apply with respect to a juvenile nonviolent  
 20 offense (as defined in section 5031 of such title, as  
 21 amended by subsection (b)) that is committed or al-  
 22 leged to have been committed before, on, or after the  
 23 date of enactment of this Act.



1       (e) *RULE OF CONSTRUCTION.*—*Nothing in the amend-*  
 2 *ments made by this section shall be construed to authorize*  
 3 *the sealing or expungement of a record of a criminal convic-*  
 4 *tion of a juvenile who was proceeded against as an adult*  
 5 *in a district court of the United States.*

6 **SEC. 212. JUVENILE SOLITARY CONFINEMENT.**

7       (a) *IN GENERAL.*—*Chapter 403 of title 18, United*  
 8 *States Code, as amended by section 211, is amended by add-*  
 9 *ing at the end the following:*

10 **“§ 5045. Juvenile solitary confinement**

11       “(a) *DEFINITIONS.*—*In this section—*

12               “(1) *the term ‘covered juvenile’ means—*

13                       “(A) *a juvenile who—*

14                               “(i) *is being proceeded against under*  
 15                               *this chapter for an alleged act of juvenile*  
 16                               *delinquency; or*

17                               “(ii) *has been adjudicated delinquent*  
 18                               *under this chapter; or*

19                       “(B) *a juvenile who is being proceeded*  
 20                       *against as an adult in a district court of the*  
 21                       *United States for an alleged criminal offense;*

22               “(2) *the term ‘juvenile facility’ means any facil-*  
 23               *ity where covered juveniles are—*

24                       “(A) *committed pursuant to an adjudica-*  
 25                       *tion of delinquency under this chapter; or*

1           “(B) detained prior to disposition or con-  
2           viction; and

3           “(3) the term ‘room confinement’ means the in-  
4           voluntary placement of a covered juvenile alone in a  
5           cell, room, or other area for any reason.

6           “(b) *PROHIBITION ON ROOM CONFINEMENT IN JUVE-*  
7           *NILE FACILITIES.—*

8           “(1) *IN GENERAL.—*The use of room confinement  
9           at a juvenile facility for discipline, punishment, retal-  
10          iation, or any reason other than as a temporary re-  
11          sponse to a covered juvenile’s behavior that poses a se-  
12          rious and immediate risk of physical harm to any in-  
13          dividual, including the covered juvenile, is prohibited.

14          “(2) *JUVENILES POSING RISK OF HARM.—*

15          “(A) *REQUIREMENT TO USE LEAST RE-*  
16          *STRICTIVE TECHNIQUES.—*

17                 “(i) *IN GENERAL.—*Before a staff mem-  
18                 ber of a juvenile facility places a covered ju-  
19                 venile in room confinement, the staff mem-  
20                 ber shall attempt to use less restrictive tech-  
21                 niques, including—

22                         “(I) talking with the covered juve-  
23                         nile in an attempt to de-escalate the  
24                         situation; and

1           “(II) permitting a qualified men-  
2           tal health professional to talk to the  
3           covered juvenile.

4           “(i) *EXPLANATION.*—If, after attempt-  
5           ing to use less restrictive techniques as re-  
6           quired under clause (i), a staff member of  
7           a juvenile facility decides to place a covered  
8           juvenile in room confinement, the staff  
9           member shall first—

10           “(I) explain to the covered juve-  
11           nile the reasons for the room confine-  
12           ment; and

13           “(II) inform the covered juvenile  
14           that release from room confinement  
15           will occur—

16           “(aa) immediately when the  
17           covered juvenile regains self-con-  
18           trol, as described in subparagraph  
19           (B)(i); or

20           “(bb) not later than after the  
21           expiration of the time period de-  
22           scribed in subclause (I) or (II) of  
23           subparagraph (B)(ii), as applica-  
24           ble.

1           “(B) *MAXIMUM PERIOD OF CONFINEMENT.*—*If a covered juvenile is placed in room*  
2           *confinement because the covered juvenile poses a*  
3           *serious and immediate risk of physical harm to*  
4           *himself or herself, or to others, the covered juve-*  
5           *nile shall be released—*

7                   “(i) *immediately when the covered ju-*  
8                   *venile has sufficiently gained control so as*  
9                   *to no longer engage in behavior that threat-*  
10                   *ens serious and immediate risk of physical*  
11                   *harm to himself or herself, or to others; or*

12                   “(ii) *if a covered juvenile does not suf-*  
13                   *ficiently gain control as described in clause*  
14                   *(i), not later than—*

15                           “(I) *3 hours after being placed in*  
16                           *room confinement, in the case of a cov-*  
17                           *ered juvenile who poses a serious and*  
18                           *immediate risk of physical harm to*  
19                           *others; or*

20                           “(II) *30 minutes after being*  
21                           *placed in room confinement, in the*  
22                           *case of a covered juvenile who poses a*  
23                           *serious and immediate risk of physical*  
24                           *harm only to himself or herself.*

1           “(C) *RISK OF HARM AFTER MAXIMUM PE-*  
2           *RIOD OF CONFINEMENT.*—*If, after the applicable*  
3           *maximum period of confinement under subclause*  
4           *(I) or (II) of subparagraph (B)(ii) has expired,*  
5           *a covered juvenile continues to pose a serious*  
6           *and immediate risk of physical harm described*  
7           *in that subclause—*

8                     “(i) *the covered juvenile shall be trans-*  
9                     *ferred to another juvenile facility or inter-*  
10                    *nal location where services can be provided*  
11                    *to the covered juvenile without relying on*  
12                    *room confinement; or*

13                   “(ii) *if a qualified mental health pro-*  
14                    *fessional believes the level of crisis service*  
15                    *needed is not currently available, a staff*  
16                    *member of the juvenile facility shall initiate*  
17                    *a referral to a location that can meet the*  
18                    *needs of the covered juvenile.*

19           “(D) *SPIRIT AND PURPOSE.*—*The use of*  
20           *consecutive periods of room confinement to evade*  
21           *the spirit and purpose of this subsection shall be*  
22           *prohibited.”.*

23           (b) *TECHNICAL AND CONFORMING AMENDMENT.*—*The*  
24           *table of sections for chapter 403 of title 18, United States*

1 Code, as amended by section 211, is amended by adding  
 2 at the end the following:

“5045. Juvenile solitary confinement.”.

3 **SEC. 213. ENSURING ACCURACY OF FEDERAL CRIMINAL**  
 4 **RECORDS.**

5 (a) *IN GENERAL.*—Section 534 of title 28, United  
 6 States Code, is amended by adding at the end the following:

7 “(g) *ENSURING ACCURACY OF FEDERAL CRIMINAL*  
 8 *RECORDS.*—

9 “(1) *DEFINITIONS.*—

10 “(A) *IN GENERAL.*—In this subsection—

11 “(i) the term ‘applicant’ means the in-  
 12 dividual to whom a record sought to be ex-  
 13 changed pertains;

14 “(ii) the term ‘high-risk, public trust  
 15 position’ means a position designated as a  
 16 public trust position under section  
 17 731.106(b) of title 5, Code of Federal Regu-  
 18 lations, or any successor regulation;

19 “(iii) the term ‘incomplete’, with re-  
 20 spect to a record, means the record—

21 “(I) indicates that an individual  
 22 was arrested but does not describe the  
 23 offense for which the individual was  
 24 arrested; or

1           “(II) indicates that an individual  
2           was arrested or criminal proceedings  
3           were instituted against an individual  
4           but does not include the final disposi-  
5           tion of the arrest or of the proceedings  
6           if a final disposition has been reached;

7           “(iv) the term ‘record’ means a record  
8           or other information collected under this  
9           section that relates to—

10           “(I) an arrest by a Federal law  
11           enforcement officer; or

12           “(II) a Federal criminal pro-  
13           ceeding;

14           “(v) the term ‘reporting jurisdiction’  
15           means any person or entity that provides a  
16           record to the Attorney General under this  
17           section; and

18           “(vi) the term ‘requesting entity’—

19           “(I) means a person or entity that  
20           seeks the exchange of a record for civil  
21           purposes that include employment,  
22           housing, credit, or any other type of  
23           application; and

1                   “(II) does not include a law en-  
2                   forcement or intelligence agency that  
3                   seeks the exchange of a record for—

4                                 “(aa) investigative purposes;

5                                 or

6                                 “(bb) purposes relating to  
7                   law enforcement employment.

8                   “(B) *RULE OF CONSTRUCTION.*—The defini-  
9                   tion of the term ‘requesting entity’ under sub-  
10                  paragraph (A) shall not be construed to author-  
11                  ize access to records that is not otherwise author-  
12                  ized by law.

13                  “(2) *INCOMPLETE OR INACCURATE RECORDS.*—  
14                  The Attorney General shall establish and enforce pro-  
15                  cedures to ensure the prompt release of accurate  
16                  records exchanged for employment-related purposes  
17                  through the records system created under this section.

18                  “(3) *REQUIRED PROCEDURES.*—The procedures  
19                  established under paragraph (2) shall include the fol-  
20                  lowing:

21                                 “(A) *INACCURATE RECORD OR INFORMA-*  
22                                 *TION.*—If the Attorney General determines that a  
23                                 record is inaccurate, the Attorney General shall  
24                                 promptly correct the record, including by mak-  
25                                 ing deletions to the record if appropriate.



1           “(B) *INCOMPLETE RECORD.*—

2                   “(i) *IN GENERAL.*—*If the Attorney*  
3                   *General determines that a record is incom-*  
4                   *plete or cannot be verified, the Attorney*  
5                   *General—*

6                           “(I) *shall attempt to complete or*  
7                           *verify the record; and*

8                           “(II) *if unable to complete or*  
9                           *verify the record, may promptly make*  
10                          *any changes or deletions to the record.*

11                          “(ii) *LACK OF DISPOSITION OF AR-*  
12                          *REST.*—*For purposes of this subparagraph,*  
13                          *an incomplete record includes a record that*  
14                          *indicates there was an arrest and does not*  
15                          *include the disposition of the arrest.*

16                          “(iii) *OBTAINING DISPOSITION OF AR-*  
17                          *REST.*—*If the Attorney General determines*  
18                          *that a record is an incomplete record de-*  
19                          *scribed in clause (ii), the Attorney General*  
20                          *shall, not later than 10 days after the date*  
21                          *on which the requesting entity requests the*  
22                          *exchange and before the exchange is made,*  
23                          *obtain the disposition (if any) of the arrest.*

24                          “(C) *NOTIFICATION OF REPORTING JURIS-*  
25                          *DICTION.*—*The Attorney General shall notify*

1           *each appropriate reporting jurisdiction of any*  
2           *action taken under subparagraph (A) or (B).*

3           “(D) *OPPORTUNITY TO REVIEW RECORDS BY*  
4           *APPLICANT.—In connection with an exchange of*  
5           *a record under this section, the Attorney General*  
6           *shall—*

7                   “(i) *notify the applicant that the ap-*  
8                   *plicant can obtain a copy of the record as*  
9                   *described in clause (ii) if the applicant*  
10                  *demonstrates a reasonable basis for the ap-*  
11                  *plicant’s review of the record;*

12                  “(ii) *provide to the applicant an op-*  
13                  *portunity, upon request and in accordance*  
14                  *with clause (i), to—*

15                          “(I) *obtain a copy of the record;*

16                          *and*

17                          “(II) *challenge the accuracy and*  
18                          *completeness of the record;*

19                          “(iii) *promptly notify the requesting*  
20                          *entity of any such challenge;*

21                          “(iv) *not later than 30 days after the*  
22                          *date on which the challenge is made, com-*  
23                          *plete an investigation of the challenge;*

1           “(v) provide to the applicant the spe-  
2           cific findings and results of that investiga-  
3           tion;

4           “(vi) promptly make any changes or  
5           deletions to the records required as a result  
6           of the challenge; and

7           “(vii) report those changes to the re-  
8           questing entity.

9           “(E) CERTAIN EXCHANGES PROHIBITED.—

10           “(i) IN GENERAL.—An exchange shall  
11           not include any record—

12           “(I) except as provided in clause  
13           (ii), about an arrest more than 2 years  
14           old as of the date of the request for the  
15           exchange, that does not also include a  
16           disposition (if any) of that arrest;

17           “(II) relating to an adult or juve-  
18           nile nonserious offense of the sort de-  
19           scribed in section 20.32(b) of title 28,  
20           Code of Federal Regulations, as in ef-  
21           fect on July 1, 2009; or

22           “(III) to the extent the record is  
23           not clearly an arrest or a disposition  
24           of an arrest.

1                   “(i) *APPLICANTS FOR SENSITIVE POSI-*  
 2                   *TIONS.—The prohibition under clause (i)(I)*  
 3                   *shall not apply in the case of a background*  
 4                   *check that relates to—*

5                               “(I) *law enforcement employment;*  
 6                               *or*

7                               “(II) *any position that a Federal*  
 8                               *agency designates as a—*

9                                       “(aa) *national security posi-*  
 10                                       *tion; or*

11                                       “(bb) *high-risk, public trust*  
 12                                       *position.*

13                   “(4) *FEEES.—The Attorney General may collect a*  
 14                   *reasonable fee for an exchange of records for employ-*  
 15                   *ment-related purposes through the records system cre-*  
 16                   *ated under this section to defray the costs associated*  
 17                   *with exchanges for those purposes, including any costs*  
 18                   *associated with the investigation of inaccurate or in-*  
 19                   *complete records.”.*

20                   (b) *REGULATIONS ON REASONABLE PROCEDURES.—*  
 21                   *Not later than 1 year after the date of enactment of this*  
 22                   *Act, the Attorney General shall issue regulations to carry*  
 23                   *out section 534(g) of title 28, United States Code, as added*  
 24                   *by subsection (a).*

25                   (c) *REPORT.—*

1           (1) *DEFINITION.*—*In this subsection, the term*  
2           *“record” has the meaning given the term in sub-*  
3           *section (g) of section 534 of title 28, United States*  
4           *Code, as added by subsection (a).*

5           (2) *REPORT REQUIRED.*—*Not later than 2 years*  
6           *after the date of enactment of this Act, the Attorney*  
7           *General shall submit to Congress a report on the im-*  
8           *plementation of subsection (g) of section 534 of title*  
9           *28, United States Code, as added by subsection (a),*  
10          *that includes—*

11                   (A) *the number of exchanges of records for*  
12                   *employment-related purposes made with entities*  
13                   *in each State through the records system created*  
14                   *under such section 534;*

15                   (B) *any prolonged failure of a Federal*  
16                   *agency to comply with a request by the Attorney*  
17                   *General for information about dispositions of ar-*  
18                   *rests; and*

19                   (C) *the numbers of successful and unsuccess-*  
20                   *ful challenges to the accuracy and completeness*  
21                   *of records, organized by the Federal agency from*  
22                   *which each record originated.*

Calendar No. 279

114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 2123**

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**A BILL**

To reform sentencing laws and correctional  
institutions, and for other purposes.

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OCTOBER 26, 2015

Reported with an amendment