

115TH CONGRESS
1ST SESSION

H. R. 3227

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

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2017

Mr. GRIJALVA (for himself, Ms. BASS, Mr. ELLISON, Mr. RUSH, Mr. SERRANO, Ms. CLARK of Massachusetts, Mrs. NAPOLITANO, Ms. SCHAKOWSKY, Mr. MCGOVERN, Mr. POLIS, and Ms. LEE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Financial Services, Energy and Commerce, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice is Not For
5 Sale Act of 2017”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

1 (1) the term “core correctional services” means
2 the housing, transporting, safeguarding, protecting,
3 and disciplining of individuals—

4 (A) charged with or convicted of an of-
5 fense; or

6 (B) who are in custody for purposes of en-
7 forcing the immigration laws, as defined in sec-
8 tion 101(a) of the Immigration and Nationality
9 Act (8 U.S.C. 1101(a));

10 (2) the term “local government” means a city,
11 county, township, town, borough, parish, village, or
12 other general purpose political subdivision of a
13 State; and

14 (3) the term “State” means a State of the
15 United States, the District of Columbia, the Com-
16 monwealth of Puerto Rico, or another common-
17 wealth, territory, or possession of the United States.

18 **SEC. 3. ELIMINATION OF FEDERAL CONTRACTS FOR PRI-**

19 **VATELY RUN PRISONS WITHIN 3 YEARS.**

20 (a) DEFINITION.—In this section, the term “facility
21 housing adult prisoners or detainees in the custody of the
22 Federal Government” does not include a community cor-
23 rectional facility or the residence of an individual on home
24 confinement, as described in section 3624(e) of title 18,
25 United States Code.

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

4 (1) each facility housing adult prisoners or de-
5 tainees in the custody of the Federal Government
6 shall be under the direct, operational control of the
7 Federal Government; and

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

11 (c) WAIVER AUTHORIZED.—If the Attorney General
12 determines that the Federal Government is unable to com-
13 ply with subsection (b) by the date that is 2 years after
14 the date of enactment of this Act, the Attorney General
15 may waive the application of subsection (b) for not more
16 than 1 year.

17 **SEC. 4. PROHIBITION ON PRIVATE ENTITIES RUNNING**
18 **PRISONS HOUSING STATE AND LOCAL PRIS-**
19 **ONERS AFTER 3 YEARS.**

20 (a) DEFINITION.—In this section, the term “facility
21 housing adult prisoners or detainees in the custody of a
22 State or local government” does not include a community
23 treatment center, halfway house, restitution center, men-
24 tal health facility, alcohol or drug rehabilitation center, or

1 other community facility that is not within the confines
2 of a jail or prison.

3 (b) OPERATIONAL CONTROL.—Except as provided in
4 subsection (c), on and after the date that is 2 years after
5 the date of enactment of this Act—

6 (1) no private entity engaged in or affecting
7 interstate commerce shall own or have direct, oper-
8 ational control over a facility housing adult prisoners
9 or detainees in the custody of the State or local gov-
10 ernment; and

11 (2) no private entity engaged in or affecting
12 interstate commerce shall perform core correctional
13 services at such a facility.

14 (c) WAIVER AUTHORIZED.—If the Attorney General
15 determines that a State or local government requires serv-
16 ices from a private entity that are described in subsection
17 (b) after the date that is 2 years after the date of enact-
18 ment of this Act, the Attorney General may waive the ap-
19 plication of subsection (b) as to that private entity for not
20 more than 1 year.

21 (d) ENFORCEMENT.—The Attorney General may
22 bring a civil action in an appropriate district court of the
23 United States for such declaratory or injunctive relief as
24 is necessary to carry out this section.

1 **SEC. 5. REINSTATEMENT OF PAROLE.**

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

“SUBCHAPTER D—PAROLE

“Sec.

“3631. Definitions.

“3632. Powers and duties of the Commission.

“3633. Powers and duties of the Chairperson.

“3634. Time of eligibility for release on parole.

“3635. Parole determination criteria.

“3636. Information considered.

“3637. Parole determination proceeding; time.

“3638. Conditions of parole.

“3639. Jurisdiction of Commission.

“3640. Early termination of parole.

“3641. Aliens.

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

“3643. Revocation of parole.

“3644. Reconsideration and appeal.

“3645. Young adult offenders.

“3646. Applicability of Administrative Procedure Act.

5 **“Subchapter D—Parole**

6 **“§ 3631. Definitions**

7 “In this subchapter—

8 “(1) the term ‘Chairperson’ means the Chair-
 9 person of the Commission;

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

12 “(3) the term ‘Commissioner’ means any mem-
 13 ber of the Commission;

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

16 “(5) the term ‘eligible prisoner’ means any Fed-
 17 eral prisoner who is eligible for parole under this

1 title or any other law, including any Federal pris-
2 oner whose parole has been revoked and who is not
3 otherwise ineligible for parole;

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

8 “(7) the term ‘rules and regulations’ means
9 rules and regulations promulgated by the Commis-
10 sion under section 3632 and section 553 of title 5.

11 **“§ 3632. Powers and duties of the Commission**

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

14 “(1) promulgate rules and regulations estab-
15 lishing guidelines for the powers enumerated in sub-
16 section (b) and such other rules and regulations as
17 are necessary to carry out a national parole policy
18 and the purposes of this subchapter;

19 “(2) create such regions as are necessary to
20 carry out this subchapter, but in no event less than
21 5; and

22 “(3) ratify, revise, or deny any request for reg-
23 ular, supplemental, or deficiency appropriations, be-
24 fore the submission of the requests to the Office of
25 Management and Budget by the Chairperson, which

1 requests shall be separate from those of any other
2 agency in the Department of Justice.

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

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

8 “(2) impose reasonable conditions on an order
9 granting parole;

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

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

16 “(A) for maintaining proper supervision of
17 and assistance to such parolees; and

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

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

23 “(1) may delegate to one or more Commis-
24 sioners powers enumerated in subsection (b);

1 “(2) may delegate to hearing examiners any
2 powers necessary to conduct hearings and pro-
3 ceedings, take sworn testimony, obtain and make a
4 record of pertinent information, make findings of
5 probable cause and issue subpoenas for witnesses or
6 evidence in parole revocation proceedings, and rec-
7 ommend disposition of any matters enumerated in
8 subsection (b), except that any such findings or rec-
9 ommendations shall be based upon the concurrence
10 of not less than 2 hearing examiners;

11 “(3) may delegate authority to conduct hear-
12 ings held under section 3643 to any officer or em-
13 ployee of the executive or judicial branch of Federal
14 or State government;

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

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

24 “(d) POLICYMAKING.—Except as otherwise provided
25 by law, any action taken by the Commission under sub-

1 section (a) shall be taken by a majority vote of all individ-
2 uals currently holding office as members of the Commis-
3 sion which shall maintain and make available for public
4 inspection a record of the final vote of each member on
5 statements of policy and interpretations adopted by it. In
6 so acting, each Commissioner shall have equal responsi-
7 bility and authority, shall have full access to all informa-
8 tion relating to the performance of such duties and respon-
9 sibilities, and shall have 1 vote.

10 **“§ 3633. Powers and duties of the Chairperson**

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

12 “(1) convene and preside at meetings of the
13 Commission under section 3632 and such additional
14 meetings of the Commission as the Chairperson may
15 call or as may be requested in writing by at least 3
16 Commissioners;

17 “(2) appoint, fix the compensation of, assign,
18 and supervise all personnel employed by the Com-
19 mission except that—

20 “(A) the appointment of any hearing ex-
21 aminer shall be subject to approval of the Com-
22 mission within the first year of such hearing ex-
23 aminer’s employment; and

24 “(B) regional Commissioners shall appoint
25 and supervise such personnel employed regu-

1 larly and full time in their respective regions as
2 are compensated at a rate up to and including
3 level GS–9 of the General Schedule;

4 “(3) assign duties among officers and employ-
5 ees of the Commission, including Commissioners, so
6 as to balance the workload and provide for orderly
7 administration;

8 “(4) direct the preparation of requests for ap-
9 propriations for the Commission, and the use of
10 funds made available to the Commission;

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

17 “(6) designate, for each region established
18 under section 3632(a)(2), 1 Commissioner to serve
19 as regional Commissioner in each such region, ex-
20 cept that—

21 “(A) in each such designation the Chair-
22 person shall consider years of service, personal
23 preference, and fitness; and

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

1 “(7) serve as spokesperson for the Commission
2 and report annually to each House of Congress on
3 the activities of the Commission; and

4 “(8) exercise such other powers and duties and
5 perform such other functions as may be necessary to
6 carry out the purposes of this subchapter or as may
7 be provided under any other provision of law.

8 “(b) OTHER AUTHORITIES.—The Chairperson shall
9 have the power to—

10 “(1) without regard to subsections (a) and (b)
11 of section 3324 of title 31, enter into and perform
12 such contracts, leases, cooperative agreements, and
13 other transactions as may be necessary in the con-
14 duct of the functions of the Commission with any
15 public agency or with any person, firm, association,
16 corporation, educational institution, or nonprofit or-
17 ganization;

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

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

23 “(4) collect systematically the data obtained
24 from studies, research, and the empirical experience

1 of public and private agencies concerning the parole
2 process;

3 “(5) carry out programs of research concerning
4 the parole process to develop classification systems
5 which describe types of offenders, and to develop
6 theories and practices which can be applied to the
7 different types of offenders;

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

9 “(7) devise and conduct, in various geographical
10 locations, seminars, workshops, and training pro-
11 grams providing continuing studies and instruction
12 for personnel of Federal, State, and local agencies
13 and private and public organizations working with
14 parolees and connected with the parole process; and

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

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

23 **“§ 3634. Time of eligibility for release on parole**

24 “(a) ELIGIBILITY.—

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

3 “(A) a prisoner confined and serving a
4 definite term or terms of imprisonment of more
5 than 1 year shall be eligible for release on pa-
6 role after serving 33.3 percent of such term or
7 terms; and

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

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

23 “(b) DETERMINATIONS BY COURT.—Upon entering
24 a judgment of conviction, the court having jurisdiction to
25 impose sentence, when in its opinion the ends of justice

1 and best interest of the public require that the defendant
2 be sentenced to imprisonment for a term exceeding 1 year,
3 may—

4 “(1) designate in the sentence of imprisonment
5 imposed a minimum term at the expiration of which
6 the defendant shall become eligible for parole, which
7 term may not be more than 33.3 percent of the max-
8 imum sentence imposed by the court; or

9 “(2) fix the maximum sentence of imprisonment
10 to be served by the defendant, in which event the
11 court may specify that the defendant may be re-
12 leased on parole at such time as the Commission
13 may determine.

14 “(c) ADDITIONAL INFORMATION.—

15 “(1) IN GENERAL.—If the court desires more
16 detailed information as a basis for determining the
17 sentence to be imposed, the court may commit the
18 defendant to the custody of the Attorney General,
19 which commitment shall be deemed to be for the
20 maximum sentence of imprisonment prescribed by
21 law, for a study as described in subsection (d).

22 “(2) REPORT AND RECOMMENDATIONS OF DI-
23 RECTOR.—Not later than 3 months after a defend-
24 ant is committed under paragraph (1), unless the
25 court grants additional time, not to exceed 3

1 months, for further study, the results of the study
2 described in subsection (d), together with any rec-
3 ommendations which the Director believes would be
4 helpful in determining the disposition of the case,
5 shall be furnished to the court.

6 “(3) SENTENCING AFTER ADDITIONAL INFOR-
7 MATION.—After receiving a report and recommenda-
8 tions under paragraph (2), the court may in its dis-
9 cretion—

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

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

14 “(II) reduce the sentence of imprisonment;
15 and

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

18 “(4) RUNNING OF TERM.—The term of a sen-
19 tence imposed under paragraph (3) shall run from
20 the date of original commitment under this sub-
21 section.

22 “(d) STUDY UPON COMMITMENT.—

23 “(1) IN GENERAL.—Upon commitment of a
24 prisoner sentenced to imprisonment under sub-
25 section (a) or (b), the Director, under such regula-

1 tions as the Attorney General may prescribe, shall
2 cause a complete study to be made of the prisoner
3 and shall furnish to the Commission a summary re-
4 port together with any recommendations which in
5 the opinion of the Director would be helpful in deter-
6 mining the suitability of the prisoner for parole.

7 “(2) CONTENTS.—A report under paragraph
8 (1) may include—

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

11 “(B) pertinent circumstances of the social
12 background, capabilities, and mental and phys-
13 ical health of the prisoner; and

14 “(C) consideration of such other factors as
15 may be considered pertinent.

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

19 “(e) PROVISION OF INFORMATION.—Upon request of
20 the Commission, it shall be the duty of the various proba-
21 tion officers and agencies of the Federal Government to
22 furnish the Commission—

23 “(1) information available to such officer or
24 agency concerning any eligible prisoner or parolee;
25 and

1 “(2) whenever not incompatible with the public
2 interest, their views and recommendation with re-
3 spect to any matter within the jurisdiction of the
4 Commission.

5 “(f) REDUCTION OF MINIMUM TERM.—At any time,
6 upon motion of the Director, the court may reduce any
7 minimum term before a prisoner may be released on pa-
8 role to the time the prisoner has served. The court shall
9 have jurisdiction to act upon the application at any time
10 and no hearing shall be required.

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

15 **“§ 3635. Parole determination criteria**

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

20 “(1) the eligible prisoner has substantially ob-
21 served the rules of the institution or institutions to
22 which the eligible prisoner has been confined; and

23 “(2) the Commission, upon consideration of the
24 nature and circumstances of the offense and the his-

1 tory and characteristics of the eligible prisoner, de-
2 termines that release would not—

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

5 “(B) jeopardize the public welfare.

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

10 “(c) NOTICE.—The Commission shall furnish an eli-
11 gible prisoner with a written notice of its determination
12 (including any determination described in subsection (b))
13 not later than 21 days, excluding holidays, after the date
14 of the parole determination proceeding. If parole is denied,
15 such notice shall state with particularity the reasons for
16 such denial.

17 “(d) CERTAIN PRISONERS.—

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

23 “(A) on the date on which the prisoner has
24 served 66.6 percent of each consecutive term or
25 terms; or

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

4 “(i) the date described in subpara-
5 graph (A); or

6 “(ii) the date on which the prisoner
7 has served 30 years.

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

11 “(A) the prisoner has seriously or fre-
12 quently violated institution rules and regula-
13 tions; or

14 “(B) there is a reasonable probability that
15 the prisoner will commit any Federal, State, or
16 local crime.

17 **“§ 3636. Information considered**

18 “‘In making a determination under this subchapter
19 relating to release on parole of an eligible prisoner, the
20 Commission shall consider, if available and relevant—

21 “(1) reports and recommendations which the
22 staff of the facility in which such eligible prisoner is
23 confined may make;

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

4 “(3) presentence investigation reports;

5 “(4) recommendations regarding the eligible
6 prisoner’s parole made at the time of sentencing by
7 the sentencing judge;

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

10 “(6) such additional relevant information con-
11 cerning the eligible prisoner (including information
12 submitted by the eligible prisoner) as may be reason-
13 ably available.

14 **“§ 3637. Parole determination proceeding; time**

15 “(a) PROCEEDINGS.—

16 “(1) IN GENERAL.—In making a determination
17 under this subchapter (relating to parole), the Com-
18 mission shall conduct a parole determination pro-
19 ceeding unless it determines on the basis of the eligi-
20 ble prisoner’s record that the eligible prisoner will be
21 released on parole.

22 “(2) TIMING.—

23 “(A) IN GENERAL.—Whenever feasible, the
24 initial parole determination proceeding for a
25 prisoner eligible for parole under subsection

1 (a)(1) or (b)(1) of section 3634 shall be held
2 not later than 30 days before the date of such
3 eligibility for parole.

4 “(B) OTHER PROCEEDINGS.—Whenever
5 feasible, the initial parole determination pro-
6 ceeding for a prisoner eligible for parole under
7 section 3634(b)(2) or who was released on pa-
8 role, and whose parole has been revoked, shall
9 be held not later than 120 days following such
10 prisoner’s imprisonment or reimprisonment in a
11 Federal institution, as the case may be.

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

15 “(b) NOTICE.—

16 “(1) IN GENERAL.—Not later than 30 days be-
17 fore a parole determination proceeding relating to an
18 eligible prisoner, the eligible prisoner shall be pro-
19 vided with—

20 “(A) written notice of the time and place
21 of the proceeding; and

22 “(B) reasonable access to any reports or
23 other documents to be used by the Commission
24 in making its determination.

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

7 “(c) WITHHOLDING OF CERTAIN MATERIALS.—

8 “(1) IN GENERAL.—Subsection (b)(1)(B) shall
9 not apply to—

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

13 “(B) any document which reveals sources
14 of information obtained upon a promise of con-
15 fidentiality; or

16 “(C) any other information which, if dis-
17 closed, might result in harm, physical or other-
18 wise, to any person.

19 “(2) SUMMARIES.—If access to a report or
20 other document is not provided by the Commission,
21 the Bureau of Prisons, or any other agency under
22 paragraph (1), the Commission, the Bureau, or such
23 other agency, respectively, shall provide to the eligi-
24 ble prisoner a summary of the basic contents of the

1 material withheld, bearing in mind the need for con-
2 fidentiality and the impact on the eligible prisoner.

3 “(d) CONSULTATION AND REPRESENTATION.—

4 “(1) IN GENERAL.—During the period before a
5 parole determination proceeding described in sub-
6 section (b)(1), an eligible prisoner may consult, as
7 provided by the Director, with a representative as
8 referred to in paragraph (2), and by mail or other-
9 wise with any person concerning such proceeding.

10 “(2) REPRESENTATION AT PROCEEDING.—An
11 eligible prisoner shall, if the eligible prisoner choos-
12 es, be represented at the parole determination pro-
13 ceeding by a representative who qualifies under rules
14 promulgated by the Commission. Such rules shall
15 not exclude attorneys as a class.

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

19 “(f) RECORDS.—A full and complete record of every
20 parole determination proceeding shall be retained by the
21 Commission. Upon request, the Commission shall make
22 available to any eligible prisoner such record as the Com-
23 mission may retain of the parole determination pro-
24 ceeding.

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

3 “(1) a personal conference to explain the rea-
4 sons for the denial shall be held between the eligible
5 prisoner and the Commissioners or examiners con-
6 ducting the proceeding at the conclusion of the pro-
7 ceeding; and

8 “(2) the conference shall include advice to the
9 eligible prisoner as to what steps may be taken to
10 enhance the chance of being released at a subse-
11 quent proceeding.

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

16 “(1) 18 months in the case of an eligible pris-
17 oner serving a term or terms of imprisonment of
18 more than 1 year and less than 7 years; and

19 “(2) 24 months in the case of an eligible pris-
20 oner serving a term or terms of imprisonment of not
21 less than 7 years.

22 **“§ 3638. Conditions of parole**

23 “(a) CONDITIONS.—

24 “(1) NO OTHER CRIMES.—In every case, the
25 Commission shall impose as a condition of parole

1 that the parolee not commit another Federal, State,
2 or local crime.

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

4 “(A) may impose or modify other condi-
5 tions of parole to the extent that such condi-
6 tions are reasonably related to—

7 “(i) the nature and circumstances of
8 the offense; and

9 “(ii) the history and characteristics of
10 the parolee; and

11 “(B) may provide for such supervision and
12 other limitations as are reasonable to protect
13 the public welfare.

14 “(b) SCOPE OF CONDITIONS.—

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

18 “(2) CERTIFICATE.—Upon release on parole, a
19 parolee shall be given a certificate setting forth the
20 conditions of parole. An effort shall be made to
21 make certain that the parolee understands the condi-
22 tions of parole.

23 “(c) TREATMENT.—

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

4 “(A) a parolee to reside in or participate in
5 the program of a residential community treat-
6 ment center, or both, for all or part of the pe-
7 riod of such parole; and

8 “(B) a parolee who is an addict (as defined
9 under section 102 of the Controlled Substances
10 Act (21 U.S.C. 802)) or a drug dependent per-
11 son (as defined in section 2 of the Public
12 Health Service Act (42 U.S.C. 201)) to undergo
13 available medical, psychiatric, or psychological
14 treatment for drug or alcohol dependency for all
15 or part of the period of parole.

16 “(2) COSTS.—A parolee residing in a residen-
17 tial community treatment center pursuant to para-
18 graph (1) may be required to pay such costs incident
19 to residence as the Commission determines appro-
20 priate.

21 “(d) MODIFICATION OF CONDITIONS.—

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

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

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

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

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

18 **“§ 3639. Jurisdiction of Commission**

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

24 “(b) JURISDICTION OF COMMISSION GENERALLY.—
25 Except as otherwise provided in this section, the jurisdic-

1 tion of the Commission over the parolee shall terminate
2 not later than the date of the expiration of the maximum
3 term or terms for which the parolee was sentenced, except
4 that—

5 “(1) such jurisdiction shall terminate at an ear-
6 lier date to the extent provided under section
7 3624(b)(5) or section 3640; and

8 “(2) in the case of a parolee who has been con-
9 victed of a Federal, State, or local crime committed
10 subsequent to release on parole that is punishable by
11 a term of imprisonment, detention, or incarceration
12 in any penal facility, the Commission shall deter-
13 mine, in accordance with subsection (b) or (c) of sec-
14 tion 3643, whether all or any part of the unexpired
15 term being served at the time of parole shall run
16 concurrently or consecutively with the sentence im-
17 posed for the new offense, but in no case shall such
18 service together with such time as the parolee has
19 previously served in connection with the offense for
20 which the parolee was paroled, be longer than the
21 maximum term for which the parolee was sentenced
22 in connection with such offense.

23 “(c) INTENTIONAL FAILURE OR REFUSAL.—If a pa-
24 rolee intentionally refuses or fails to respond to any rea-
25 sonable request, order, summons, or warrant of the Com-

1 mission or any member or agent thereof, the jurisdiction
2 of the Commission may be extended for the period during
3 which the parolee so refuses or fails to respond.

4 “(d) OTHER SENTENCES.—The parole of any parolee
5 shall run concurrently with the period of parole or proba-
6 tion under any other Federal, State, or local sentence.
7 Upon the termination of the jurisdiction of the Commis-
8 sion over any parolee, the Commission shall issue a certifi-
9 cate of discharge to the parolee and to such other agencies
10 as it may determine.

11 **“§ 3640. Early termination of parole**

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

16 “(b) STATUS REVIEWS.—

17 “(1) IN GENERAL.—Not later than 2 years
18 after a parolee is released on parole, and every year
19 thereafter, the Commission shall review the status of
20 the parolee to determine the need for continued su-
21 pervision.

22 “(2) EXCLUSION OF CERTAIN PERIODS.—In
23 calculating the 2-year period described in paragraph
24 (1), there shall not be included any period of release
25 on parole prior to the most recent such release, nor

1 any period served in confinement on any other sen-
2 tence.

3 “(c) TERMINATION AFTER 5 YEARS.—

4 “(1) IN GENERAL.—Five years after a parolee
5 is released on parole, the Commission shall termi-
6 nate supervision over the parolee unless the Commis-
7 sion determines, after a hearing conducted in ac-
8 cordance with the procedures prescribed in section
9 3643(a)(2), that such supervision should not be ter-
10 minated because there is a likelihood that the pa-
11 rolee will engaged in conduct violating any criminal
12 law.

13 “(2) CONTINUATION OF PAROLE.—If super-
14 vision is not terminated under paragraph (1), the
15 parolee may request a hearing annually thereafter,
16 and a hearing, with procedures in accordance with
17 paragraph (1), shall be conducted with respect to
18 such termination of supervision not less frequently
19 than every 2 years.

20 “(3) EXCLUSION OF CERTAIN PERIODS.—In
21 calculating the 5-year period described in paragraph
22 (1), there shall not be included any period of release
23 on parole prior to the most recent such release, nor
24 any period served in confinement on any other sen-
25 tence.

1 **“§ 3641. Aliens**

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

5 “(b) ALIENS WITH FINAL ORDERS OF REMOVAL.—
6 When an alien prisoner subject to a final order of removal
7 becomes eligible for parole, the Commission may authorize
8 the release of such prisoner and, when parole becomes ef-
9 fective, may deliver such prisoner to a duly authorized im-
10 migration official for removal.

11 **“§ 3642. Summons to appear or warrant for retaking**
12 **of parolee**

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

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

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

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

20 “(1) IN GENERAL.—A summons or warrant
21 issued under this section shall be issued by the Com-
22 mission as soon as practicable after discovery of the
23 alleged violation, except when delay is determined
24 necessary.

25 “(2) IMPRISONMENT.—Imprisonment in an in-
26 stitution shall not constitute grounds for delay of

1 such issuance, except that, in the case of any parolee
2 charged with a criminal offense, issuance of a sum-
3 mons or warrant may be suspended pending disposi-
4 tion of the charge.

5 “(c) NOTICE.—A summons or warrant issued under
6 this section shall provide the parolee with written notice
7 of—

8 “(1) the conditions of parole imposed under
9 section 3638 that the parolee is alleged to have vio-
10 lated;

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

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

15 “(d) EXECUTION OF WARRANTS.—An officer of a
16 Federal penal or correctional institution, or a Federal offi-
17 cer authorized to serve criminal process within the United
18 States, to whom a warrant issued under this section is
19 delivered, shall execute such warrant by taking such pa-
20 rolee and returning the parolee to the custody of the re-
21 gional commissioner, or to the custody of the Attorney
22 General, if the Commission shall so direct.

23 **“§ 3643. Revocation of parole**

24 “(a) REVOCATION GENERALLY.—

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

3 “(A) an alleged parole violator summoned
4 or retaken under section 3642 shall be afforded
5 the opportunity to have a preliminary hearing
6 at or reasonably near the place of the alleged
7 parole violation or arrest, without unnecessary
8 delay, to determine if there is probable cause to
9 believe that the parolee has violated a condition
10 of parole;

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

13 “(i) a digest shall be prepared by the
14 Commission setting forth in writing the
15 factors considered and the reasons for the
16 decision; and

17 “(ii) a copy of the digest shall be
18 given to the parolee within a reasonable
19 period of time;

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

22 “(i) continuation of revocation pro-
23 ceedings is not warranted;

24 “(ii) incarceration of the parolee
25 pending further revocation proceedings is

1 not warranted by the alleged frequency or
2 seriousness of such violation or violations;

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

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

7 “(D) not later than 60 days after a finding
8 of probable cause, a revocation hearing shall be
9 held at or reasonably near the place of the al-
10 leged parole violation or arrest, except that a
11 revocation hearing may be held at the same
12 time and place set for the preliminary hearing.

13 “(2) HEARING PROCEDURES.—For a hearing
14 held under paragraph (1)—

15 “(A) notice shall be given to the parolee of
16 the conditions of parole alleged to have been
17 violated, and the time, place, and purposes of
18 the scheduled hearing;

19 “(B) the parolee shall have an opportunity
20 to be represented by an attorney (retained by
21 the parolee, or if the parolee is financially un-
22 able to retain counsel, counsel shall be provided
23 under section 3006A) or, if the parolee so
24 chooses, a representative as provided by rules

1 and regulations, unless the parolee knowingly
2 and intelligently waives such representation;

3 “(C) the parolee shall have an opportunity
4 to appear and testify, and present witnesses
5 and relevant evidence on his or her own behalf;
6 and

7 “(D) the parolee shall have an opportunity
8 to be apprised of the evidence against the pa-
9 rolee and, if the parolee so requests, to confront
10 and cross-examine adverse witnesses, unless the
11 Commission specifically finds substantial reason
12 for not so allowing.

13 “(3) SUBPOENAS.—For purposes of paragraph
14 (1), the Commission may subpoena witnesses and
15 evidence, and pay witness fees as established for the
16 courts of the United States. If a person refuses to
17 obey such a subpoena, the Commission may petition
18 a court of the United States for the judicial district
19 in which such parole proceeding is being conducted,
20 or in which such person may be found, to request
21 such person to attend, testify, and produce evidence.
22 The court may issue an order requiring such person
23 to appear before the Commission, when the court
24 finds such information, thing, or testimony directly
25 related to a matter with respect to which the Com-

1 mission is empowered to make a determination
2 under this section. Failure to obey such an order is
3 punishable by such court as a contempt. All process
4 in such a case may be served in the judicial district
5 in which such a parole proceeding is being con-
6 ducted, or in which such person may be found.

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

8 “(1) IN GENERAL.—Conviction for a Federal,
9 State, or local crime committed subsequent to re-
10 lease on parole shall constitute probable cause for
11 purposes of subsection (a).

12 “(2) PAROLEES INCARCERATED.—If a parolee
13 has been convicted of a Federal, State, or local
14 crime and is serving a new sentence in an institu-
15 tion, a parole revocation warrant or summons issued
16 under section 3642 may be placed against the pa-
17 rolee as a detainer. Not later than 180 days after
18 the Commission receives notice of the placement of
19 a detainer, the detainer shall be reviewed by the
20 Commission. The parolee shall receive notice of the
21 pending review, have an opportunity to submit a
22 written application containing information relative to
23 the disposition of the detainer, and, unless waived,
24 shall have counsel as provided in subsection

1 (a)(2)(B) to assist in the preparation of such appli-
2 cation.

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

11 “(4) RESOLUTION.—Following the review relat-
12 ing to the disposition of a detainer, the Commission
13 may—

14 “(A) let the detainer stand; or

15 “(B) withdraw the detainer.

16 “(c) CERTAIN ALLEGED PAROLE VIOLATORS.—

17 “(1) REVOCATION HEARING.—

18 “(A) IN GENERAL.—An alleged parole vio-
19 lator described in subparagraph (B) shall re-
20 ceive a revocation hearing within 90 days of the
21 date of retaking.

22 “(B) COVERED ALLEGED PAROLE VIOLA-
23 TORS.—An alleged parole violator described in
24 this subparagraph is an alleged parole violator
25 who—

1 “(i) is summoned or retaken by war-
2 rant under section 3642 and knowingly
3 and intelligently waives the right to a hear-
4 ing under subsection (a);

5 “(ii) knowingly and intelligently ad-
6 mits violation at a preliminary hearing
7 held under subsection (a)(1)(A); or

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

9 “(C) CONDUCT OF HEARING.—The Com-
10 mission may conduct a hearing under subpara-
11 graph (A) at the institution to which the pa-
12 rolee has been returned, and the alleged parole
13 violator shall receive notice of the hearing, be
14 allowed to appear and testify on his or her own
15 behalf, and, unless waived, shall have counsel or
16 another representative as provided in subsection
17 (a)(2)(B).

18 “(d) DISPOSITION.—

19 “(1) IN GENERAL.—If a parolee is summoned
20 or retaken under section 3642, and the Commission
21 finds, in accordance with this section (including
22 paragraph (2) of this subsection) and by a prepon-
23 derance of the evidence, that the parolee has violated
24 a condition of parole, the Commission may—

25 “(A) restore the parolee to supervision;

1 “(B) reprimand the parolee;

2 “(C) modify the conditions of the parole of
3 the parolee;

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

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

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

12 “(A) whether the parolee has been con-
13 victed of any Federal, State, or local crime sub-
14 sequent to release on parole, and the serious-
15 ness thereof; and

16 “(B) whether the action is warranted by
17 the frequency or seriousness of the violation by
18 the parolee of any other condition or conditions
19 of parole.

20 “(e) NOTICE.—Not later than 21 days, excluding
21 holidays, after a revocation hearing under this section, the
22 Commission shall furnish the parolee with a written notice
23 of its determination. If parole is revoked, a digest shall
24 be prepared by the Commission setting forth in writing

1 the factors considered and reasons for such action, a copy
2 of which shall be given to the parolee.

3 **“§ 3644. Reconsideration and appeal**

4 “(a) IN GENERAL.—If parole release is denied under
5 section 3635, parole conditions are imposed or modified
6 under section 3638, parole discharge is denied under sec-
7 tion 3640(c), or parole is modified or revoked under sec-
8 tion 3643, the individual to whom such decision applies
9 may have the decision reconsidered by submitting a writ-
10 ten application to the regional Commissioner not later
11 than 30 days after the date on which the decision is ren-
12 dered.

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

16 “(1) acting in accordance with rules and regula-
17 tions, reaffirm, modify, or reverse the original deci-
18 sion; and

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

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

22 “(1) IN GENERAL.—Any decision made under
23 subsection (b) which is adverse to the applicant for
24 reconsideration may be appealed by the individual to
25 the National Appeals Board by submitting a written

1 notice of appeal not later than 30 days following the
2 date on which such decision is rendered.

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

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

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

10 **“§ 3645. Young adult offenders**

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

13 “(1) who has been convicted of a Federal of-
14 fense; and

15 “(2) on the date of the conviction, is not less
16 than 22 years of age and is less than 26 years of
17 age.

18 “(b) TREATMENT AS A JUVENILE.—A young adult
19 offender may be deemed a juvenile for purposes of chapter
20 403 if, after taking into consideration the previous record
21 of the young adult offender as to delinquency or criminal
22 experience, the social background, capabilities, mental and
23 physical health of the young adult offender, and such
24 other factors as may be considered pertinent, the court
25 finds that there are reasonable grounds to believe that the

1 young adult offender will benefit from being treated as a
2 juvenile under chapter 403.

3 **“§ 3646. Applicability of Administrative Procedure**
4 **Act**

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

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

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

15 “(d) EXCLUSION OF CERTAIN ACTIONS.—Actions of
16 the Commission under paragraphs (1), (2), and (3) of sec-
17 tion 3632(b) shall be considered actions committed to
18 agency discretion for purposes of section 701(a)(2) of title
19 5.”.

20 (b) PERMANENT CONTINUATION OF PAROLE COM-
21 MISSION.—Notwithstanding section 235(b) of the Sen-
22 tencing Reform Act of 1984 (18 U.S.C. 3551 note), the
23 United States Parole Commission shall not be terminated
24 under such section and appointments to the United States
25 Parole Commission shall be made in accordance with sec-

1 tion 4202 of title 18, United States Code, as in effect on
2 the day before the effective date of the Sentencing Reform
3 Act of 1984 under section 235(a) of such Act (18 U.S.C.
4 3551 note).

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

9 “(5) A prisoner having served the term or
10 terms of imprisonment of the prisoner, less credit to-
11 ward the service of the prisoner’s sentence under
12 this subsection, shall, upon release, be deemed as if
13 released on parole until the expiration of the max-
14 imum term or terms for which the prisoner was sen-
15 tenced less 180 days. This paragraph shall not pre-
16 vent delivery of a prisoner to the authorities of any
17 State otherwise entitled to custody of the prisoner.”.

18 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

19 (1) Section 3553 of title 18, United States
20 Code, is amended—

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

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

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

7 (3) Section 3624 of title 18, United States
8 Code, is amended—

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

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

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

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

22 (5) Chapter 403 of title 18, United States
23 Code, is amended—

24 (A) by inserting after section 5040 the fol-
25 lowing:

1 **“§ 5041. Parole**

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

6 (B) by striking the item relating to section
7 5041 and inserting the following:

“5041. Parole.”.

8 (6) The table of subchapters for chapter 229 of
9 title 18, United States Code, is amended by insert-
10 ing after the item relating to subchapter C the fol-
11 lowing:

“D. Parole 3631”.

12 (7) The Controlled Substances Act (21 U.S.C.
13 801 et seq.) is amended—

14 (A) in section 401(b)(1) (21 U.S.C.
15 841(b)(1))—

16 (i) in subparagraph (A), in the matter
17 following clause (viii), by striking the last
18 sentence;

19 (ii) in subparagraph (B), in the mat-
20 ter following clause (viii), by striking the
21 last sentence; and

22 (iii) in subparagraph (C), in the last
23 sentence, by striking “, nor shall a person

1 so sentenced be eligible for parole during
2 the term of such a sentence”;

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

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

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

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

13 (B) in paragraph (2), in the matter fol-
14 lowing subparagraph (H), by striking the last
15 sentence.

16 (e) APPLICABILITY.—The amendments made by this
17 section shall apply with respect to any sentence imposed
18 on or after January 1, 2019.

19 **SEC. 6. CFPB OVERSIGHT OF PROVIDERS OF MONEY**
20 **TRANSFER SERVICES FOR CORRECTIONAL**
21 **AND IMMIGRATION DETENTION FACILITIES.**

22 (a) DEFINITIONS.—In this section—

23 (1) the term “Bureau” means the Bureau of
24 Consumer Financial Protection;

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

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

6 (A) an individual who is being held, de-
7 tained, or incarcerated in a correctional facility;
8 and

9 (B) an individual who is being held in an
10 immigration detention facility;

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

14 (A) facilitates the electronic transfer of
15 funds from an individual who is not a covered
16 inmate to a covered inmate;

17 (B) provides a payment to a covered in-
18 mate who is being released from a correctional
19 facility or an immigration detention facility; or

20 (C) provides a payment on behalf of a cov-
21 ered inmate; and

22 (5) the term “immigration detention facility”
23 means a Federal, State, or local government facility,
24 or a privately owned and operated facility, that is
25 used, in whole or in part, to hold individuals under

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

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

11 (c) REQUIREMENT TO ISSUE REGULATIONS.—

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

19 (2) CONSIDERATIONS.—In issuing the final
20 rules under paragraph (1), the Bureau shall con-
21 sider—

22 (A) whether there are alternative means
23 for transferring funds into correctional facilities
24 and immigration detention facilities;

1 (B) whether those alternatives can reason-
2 ably be considered comparable;

3 (C) differing cost structures for transfer-
4 ring funds into correctional facilities and immi-
5 gration detention facilities; and

6 (D) such other factors as the Bureau may
7 determine necessary or appropriate.

8 (3) DIFFERENTIATION PERMITTED.—In issuing
9 the final rules under paragraph (1), the Bureau may
10 establish different standards for different types of
11 fees and charges, as appropriate.

12 **SEC. 7. RESTRICTIONS ON THE PROVISION OF INMATE**
13 **TELEPHONE AND VIDEO SERVICE.**

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

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

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

1 “(12) The term ‘commission’ means a fee or
2 other payment by a provider of inmate telephone
3 and video service to an administrator of a correc-
4 tional institution, department of correction, or simi-
5 lar entity, based upon, or partly upon, inmate tele-
6 phone and video service revenue.

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

12 “(14) The term ‘inmate telephone and video
13 service’ includes the provision of telephone and video
14 service enabling persons incarcerated in correctional
15 institutions to originate calls at payphones, tele-
16 phones, or video kiosks that are designated for the
17 personal use of prisoners, regardless of whether the
18 calls are collect, paid through a debit account, or
19 paid through any other means.

20 “(15) The term ‘provider of inmate telephone
21 and video service’ means any common carrier that
22 provides inmate telephone and video service or any
23 other person determined by the Commission to be
24 providing inmate telephone and video service.”.

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

3 (1) by redesignating subsection (i) as subsection
4 (k); and

5 (2) by inserting after subsection (h) the fol-
6 lowing:

7 “(i) REGULATION OF INMATE TELEPHONE AND
8 VIDEO SERVICE.—

9 “(1) IN GENERAL.—In order to ensure that
10 charges for inmate telephone and video service are
11 just, reasonable, and nondiscriminatory, not later
12 than 1 year after the date of enactment of the Jus-
13 tice is Not For Sale Act of 2017, the Commission
14 shall adopt regulations on the use of inmate tele-
15 phone and video service that—

16 “(A) prescribe a maximum uniform per-
17 minute compensation rate;

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

20 “(C) prescribe variable maximum com-
21 pensation rates depending on such factors as
22 carrier costs, the size of the correctional facility
23 served, and other relevant factors identified by
24 the Commission;

1 “(D) require providers of inmate telephone
2 and video service to offer both collect calling
3 and debit account services;

4 “(E) address the payment of commissions
5 by providers of inmate telephone and video
6 service to administrators of correctional institu-
7 tions, departments of correction, and similar
8 entities by—

9 “(i) prohibiting such payments; or

10 “(ii) limiting commission payments;

11 “(F) require administrators of correctional
12 institutions, departments of correction, and
13 similar entities to allow more than 1 provider of
14 inmate telephone and video service to provide
15 inmate telephone and video service at a correc-
16 tional institution so that prisoners have a choice
17 of such providers; and

18 “(G) prohibit or substantially limit any an-
19 cillary fees imposed by a provider of inmate
20 telephone and video service on a user of the
21 service.

22 “(2) SCOPE.—

23 “(A) IN GENERAL.—The regulations
24 adopted by the Commission under this sub-
25 section—

1 “(i) shall be technologically neutral;
2 and

3 “(ii) shall not jeopardize legitimate se-
4 curity and penological interests.

5 “(B) IMPACT ON REVENUE.—To the extent
6 the regulations adopted by the Commission
7 under this subsection reduce or eliminate the
8 revenue derived by administrators of correc-
9 tional institutions, departments of correction,
10 and similar entities from the receipt of commis-
11 sions, such effects of the regulations shall not
12 be considered to be jeopardizing or otherwise
13 affecting legitimate security or penological in-
14 terests.

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

20 “(4) STATE PREEMPTION.—To the extent that
21 any State, local government, or private correctional
22 facility requirements are inconsistent with the regu-
23 lations of the Commission affecting or pertaining to
24 inmate telephone and video service, including restric-
25 tions on the payment of commissions based upon in-

1 mate telephone and video service revenues or earn-
2 ings, the regulations of the Commission on such
3 matters shall preempt the State, local government,
4 or private correctional facility requirements.

5 “(j) INMATE TELEPHONE AND VIDEO SERVICE
6 FULLY SUBJECT TO SECTIONS 201, 205, 251, 252, AND
7 276.—

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

11 “(2) RESTRICTION.—A provider of inmate tele-
12 phone and video service may not block or otherwise
13 refuse to carry a call placed by an incarcerated per-
14 son on the grounds that the provider has no contrac-
15 tual or other arrangement with the local exchange
16 carrier serving the intended recipient of the call or
17 other common carrier involved in any portion of the
18 transmission of the call.”.

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

20 (a) IN GENERAL.—The matter under the heading
21 “SALARIES AND EXPENSES” under the heading “UNITED
22 STATES IMMIGRATION AND CUSTOMS ENFORCEMENT”
23 under title II of the Department of Homeland Security
24 Appropriations Act, 2016 (division F of Public Law 114–
25 113; 129 Stat. 2497) is amended by striking “*Provided*

1 *further*, That funding made available under this heading
2 shall maintain a level of not less than 34,000 detention
3 beds through September 30, 2016:”.

4 (b) DETENTION CAPACITY.—Notwithstanding any
5 other provision of law, the number of detention beds main-
6 tained by U.S. Immigration and Customs Enforcement
7 shall be determined by the Secretary of Homeland Secu-
8 rity and shall be based solely on detention needs.

9 (c) ALTERNATIVES TO DETENTION.—

10 (1) IN GENERAL.—The Secretary of Homeland
11 Security shall establish nationwide alternatives to
12 detention programs that incorporate case manage-
13 ment services in each field office of the Department
14 of Homeland Security to ensure appearances at im-
15 migration proceedings and public safety.

16 (2) CONTRACT AUTHORITY.—The Secretary
17 may contract with nongovernmental community-
18 based organizations—

19 (A) to conduct screening of detainees;

20 (B) to operate community-based super-
21 vision programs; and

22 (C) to implement secure alternatives that
23 allow U.S. Immigration and Customs Enforce-
24 ment to maintain custody over the alien.

1 (3) ASSESSMENTS.—The Secretary shall regu-
2 larly assess the demand for alternative to detention
3 programs and make available sufficient alternative
4 to detention slots regardless of proximity to available
5 detention beds. Alternative programs shall offer a
6 continuum of supervision mechanisms and options,
7 including community support, depending on an as-
8 sessment of each individual’s circumstances. Infor-
9 mation regarding the amount of slots available in
10 each area shall be made public.

11 (4) INDIVIDUALIZED DETERMINATIONS.—In de-
12 termining whether to use alternatives to detention
13 programs, the Secretary shall make an individualized
14 determination, and for each individual placed in an
15 alternatives to detention program, shall review the
16 level of supervision on a monthly basis. Alternatives
17 to detention programs shall not be used when release
18 on bond or recognizance is determined to be a suffi-
19 cient measure to ensure appearances at immigration
20 proceedings and public safety. Detention shall not be
21 used when alternatives to detention programs are
22 determined to be a sufficient measure to ensure ap-
23 pearances at immigration proceedings and public
24 safety.

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

10 (6) VULNERABLE POPULATIONS.—

11 (A) DEFINED TERM.—In this paragraph,
12 the term “vulnerable population” includes, but
13 is not limited to, asylum seekers, victims of tor-
14 ture or trafficking, families with minor children,
15 pregnant women, nursing mothers, individuals
16 who are gay, lesbian, bisexual, or transgender,
17 individuals with a mental or physical disability,
18 and individuals who are older than 65 years of
19 age.

20 (B) CONSIDERATIONS FOR PLACEMENT.—

21 In determining whether to place a detainee in
22 an alternatives to detention program, the Sec-
23 retary shall consider whether the detainee is a
24 member of a vulnerable population. Notwith-
25 standing section 236 of the Immigration and

1 Nationality Act (8 U.S.C. 1226), a member of
2 a vulnerable population whose needs cannot be
3 adequately met by a detention facility may not
4 be held in a detention facility unless the Sec-
5 retary determines such placement is in the in-
6 terest of national security.

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

8 (a) DEFINITIONS.—In this section:

9 (1) APPLICABLE STANDARDS.—The term “ap-
10 applicable standards” means the most recent version of
11 detention standards and detention-related policies
12 issued by the Secretary or the Director of U.S. Im-
13 migration and Customs Enforcement.

14 (2) DETENTION FACILITY.—The term “deten-
15 tion facility” means a Federal, State, or local gov-
16 ernment facility, or a privately owned and operated
17 facility, that is used, in whole or in part, to hold in-
18 dividuals under the authority of the Director of U.S.
19 Immigration and Customs Enforcement, including
20 facilities that hold such individuals under a contract
21 or agreement with the Department of Homeland Se-
22 curity.

23 (b) DETENTION REQUIREMENTS.—The Secretary of
24 Homeland Security shall ensure that all persons detained
25 pursuant to the Immigration and Nationality Act (8

1 U.S.C. 1101 et seq.) are treated humanely and benefit
2 from the protections set forth in this section.

3 (c) OVERSIGHT REQUIREMENTS.—

4 (1) ANNUAL INSPECTION.—All detention facili-
5 ties housing aliens in the custody of the Department
6 of Homeland Security shall be inspected, for compli-
7 ance with applicable detention standards issued by
8 the Secretary and other applicable regulations, by—

9 (A) the Secretary of Homeland Security at
10 least annually; and

11 (B) an independent, third-party auditor at
12 least biannually.

13 (2) ROUTINE OVERSIGHT.—In addition to the
14 inspections required under paragraph (1), the Sec-
15 retary shall conduct routine oversight of the deten-
16 tion facilities described in paragraph (1), including
17 unannounced inspections.

18 (3) AVAILABILITY OF RECORDS.—All detention
19 facility contracts, memoranda of agreement, audits,
20 inspections, evaluations and reviews, include those
21 conducted by the Office for Civil Rights and Civil
22 Liberties and the Office of Inspector General of the
23 Department of Homeland Security, shall be consid-
24 ered records for purposes of section 552(f)(2) of title
25 5, United States Code.

1 (4) CONSULTATION.—The Secretary shall seek
2 input from nongovernmental organizations regarding
3 their independent opinion of specific facilities.

4 (d) COMPLIANCE MECHANISMS.—

5 (1) AGREEMENTS.—

6 (A) NEW AGREEMENTS.—Compliance with
7 applicable standards of the Secretary of Home-
8 land Security and all applicable regulations, and
9 meaningful financial penalties for failure to
10 comply, shall be a material term in any new
11 contract, memorandum of agreement, or any re-
12 negotiation, modification, or renewal of an ex-
13 isting contract or agreement, including fee ne-
14 gotiations, executed with detention facilities.

15 (B) EXISTING AGREEMENTS.—Not later
16 than 180 days after the date of the enactment
17 of this Act, the Secretary shall secure a modi-
18 fication incorporating these terms for any exist-
19 ing contracts or agreements that will not be re-
20 negotiated, renewed, or otherwise modified.

21 (C) CANCELLATION OF AGREEMENTS.—

22 Unless the Secretary provides a reasonable ex-
23 tension to a specific detention facility that is
24 negotiating in good faith, contracts or agree-
25 ments with detention facilities that are not

1 modified within 1 year of the date of the enact-
2 ment of this Act will be cancelled.

3 (D) PROVISION OF INFORMATION.—In
4 making modifications under this paragraph, the
5 Secretary shall require that detention facilities
6 provide to the Secretary all contracts, memo-
7 randa of agreement, evaluations, and reviews
8 regarding the facility on a regular basis. The
9 Secretary shall make these materials publicly
10 available on a timely and regular basis.

11 (2) FINANCIAL PENALTIES.—

12 (A) REQUIREMENT TO IMPOSE.—Subject
13 to subparagraph (C), the Secretary shall impose
14 meaningful financial penalties upon facilities
15 that fail to comply with applicable detention
16 standards issued by the Secretary and other ap-
17 plicable regulations.

18 (B) TIMING OF IMPOSITION.—Financial
19 penalties imposed under subparagraph (A) shall
20 be imposed immediately after a facility fails to
21 achieve an adequate or the equivalent median
22 score in any performance evaluation.

23 (C) WAIVER.—The requirements of sub-
24 paragraph (A) may be waived if the facility cor-

1 rects the noted deficiencies and receives an ade-
2 quate score in not more than 90 days.

3 (D) MULTIPLE OFFENDERS.—If the Sec-
4 retary determines that a facility has been per-
5 sistently and substantially violating the deten-
6 tion standards issued by the Secretary, includ-
7 ing by scoring less than adequate or the equiva-
8 lent median score in 2 consecutive inspections—

9 (i) the Secretary shall terminate con-
10 tracts or agreements with such facilities
11 within 60 days; or

12 (ii) in the case of facilities operated by
13 the Secretary, the Secretary shall close
14 such facilities within 90 days.

15 (e) REPORTING REQUIREMENTS.—

16 (1) OBJECTIVES.—Not later than June 30 of
17 each year, the Secretary of Homeland Security shall
18 submit a report to the Committee on the Judiciary
19 of the Senate and the Committee on the Judiciary
20 of the House of Representatives that describes the
21 inspection and oversight activities at detention facili-
22 ties.

23 (2) CONTENTS.—Each report submitted under
24 paragraph (1) shall include—

1 (A) a description of each detention facility
2 found to be in noncompliance with applicable
3 detention standards issued by the Department
4 of Homeland Security and other applicable reg-
5 ulations;

6 (B) a description of the actions taken by
7 the Department to remedy any findings of non-
8 compliance or other identified problems, includ-
9 ing financial penalties, contract or agreement
10 termination, or facility closure; and

11 (C) information regarding whether the ac-
12 tions described in subparagraph (B) resulted in
13 compliance with applicable detention standards
14 and regulations.

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

16 Section 236 of the Immigration and Nationality Act
17 (8 U.S.C. 1226) is amended by adding at the end the fol-
18 lowing:

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

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

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

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

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

6 “(A) shown through an individualized de-
7 termination to pose a danger to the community
8 which cannot be mitigated by other conditions
9 of release; and

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

11 “(3) ALTERNATIVES TO DETENTION.—

12 “(A) IN GENERAL.—The Secretary of
13 Homeland Security shall establish alternatives
14 to detention programs for family units who are
15 prohibited from being detained pursuant to
16 paragraph (1).

17 “(B) EXCEPTION.—Alternatives to deten-
18 tion programs may not be used if release on
19 bond or recognizance is determined to be a suf-
20 ficient measure to ensure appearances at immi-
21 gration proceedings and public safety.”.

22 **SEC. 11. PRIVATE RIGHT OF ACTION.**

23 (a) IN GENERAL.—A person aggrieved of any viola-
24 tion of this Act or an amendment made by this Act may

1 bring a civil action in an appropriate district court of the
2 United States.

3 (b) RELIEF.—For a prevailing plaintiff in a civil ac-
4 tion brought under subsection (a), the court—

5 (1) shall award damages in the amount equal to
6 the greater of—

7 (A) the actual damages of the plaintiff; or

8 (B) \$1,000 for each violation of this Act or
9 an amendment made by this Act; and

10 (2) may order injunctive relief.

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