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To enhance public safety by improving the effectiveness and efficiency of the Federal prison system with offender risk and needs assessment, individual risk reduction incentives and rewards, and risk and recidivism reduction.

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2013

Mr. CORNYN (for himself, Mr. LEE, Mr. HATCH, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To enhance public safety by improving the effectiveness and efficiency of the Federal prison system with offender risk and needs assessment, individual risk reduction incentives and rewards, and risk and recidivism reduction.

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 “Federal Prison Reform
5 Act of 2013”.

6 **SEC. 2. PURPOSES.**

7 The purposes of the Act are to—

1 (1) increase public safety by improving the ef-
2 fectiveness and efficiency of the Federal prison sys-
3 tem, and to reduce the recidivism rates of Federal
4 offenders;

5 (2) establish offender risk and needs assess-
6 ment as the cornerstone of a more effective and effi-
7 cient Federal prison system;

8 (3) implement a validated post-sentencing risk
9 and needs assessment system that relies on dynamic
10 risk factors to provide Federal prison officials with
11 guidelines to address the individual criminogenic
12 needs of Federal offenders, manage limited re-
13 sources, and enhance public safety;

14 (4) enhance existing recidivism reduction pro-
15 grams and increase prison jobs and other productive
16 activities by incentivizing Federal prisoners to re-
17 duce their individual risk of recidivism by success-
18 fully completing such programs, and by successfully
19 maintaining such jobs and activities over time;

20 (5) reward all Federal prisoners who success-
21 fully complete evidence-based intervention and treat-
22 ment programs, and maintain prison jobs and other
23 productive activities, with the ability to earn and ac-
24 crue time credits and additional privileges;

1 (6) reward Federal prisoners who successfully
2 reduce their individual risk of recidivism by pro-
3 viding them with the ability to transfer into
4 prerelease custody when they are reassessed as low
5 risk and have earned sufficient time credits;

6 (7) expand the implementation of evidence-
7 based intervention and treatment programs designed
8 to reduce recidivism, including educational and voca-
9 tional training programs, prison jobs, and other pro-
10 ductive activities, to ensure that all Federal pris-
11 oners have access to them during their entire terms
12 of incarceration;

13 (8) perform regular outcome evaluations of pro-
14 grams and interventions to assure that they are evi-
15 dence-based and to suggest changes and enhance-
16 ments based on the results; and

17 (9) assist the Department of Justice in address-
18 ing the underlying cost structure of the Federal pris-
19 on system and ensure that the Department can con-
20 tinue to run our prisons safely and securely without
21 compromising the scope or quality of the Depart-
22 ment's many other critical law enforcement missions.

23 **SEC. 3. DUTIES OF THE ATTORNEY GENERAL.**

24 (a) IN GENERAL.—The Attorney General shall carry
25 out this section in consultation with—

1 (1) the Director of the Bureau of Prisons;

2 (2) the Director of the Administrative Office of
3 the United States Courts;

4 (3) the Assistant Director for the Office of Pro-
5 bation and Pretrial Services;

6 (4) the Chair of the United States Sentencing
7 Commission;

8 (5) the Director of the National Institute of
9 Justice; and

10 (6) the inspector general of the Department of
11 Justice.

12 (b) DUTIES.—The Attorney General shall, in accord-
13 ance with subsection (c)—

14 (1) develop an offender risk and needs assess-
15 ment system in accordance with section 3621A of
16 title 18, United States Code, as added by section 4
17 of this Act;

18 (2) develop recommendations regarding recidi-
19 vism reduction programs and productive activities in
20 accordance with section 5;

21 (3) conduct ongoing research and data analysis
22 to determine—

23 (A) the best practices regarding the use of
24 offender risk and needs assessment tools;

1 (B) the best available risk and needs as-
2 sessment tools and the level to which they rely
3 on dynamic risk factors that could be addressed
4 and changed over time, and on measures of risk
5 of recidivism, individual needs, and responsivity
6 to recidivism reduction programs;

7 (C) the most effective and efficient uses of
8 such tools in conjunction with recidivism reduc-
9 tion programs, productive activities, incentives,
10 and rewards; and

11 (D) which recidivism reduction programs
12 are the most effective—

13 (i) for prisoners classified at different
14 recidivism risk levels; and

15 (ii) for addressing the specific needs
16 of individual prisoners;

17 (4) on a biennial basis, review the system re-
18 quired under paragraph (1) and the recommenda-
19 tions required under paragraph (2), using the re-
20 search conducted under paragraph (3), to determine
21 whether any revisions or updates should be made,
22 and if so, make such revisions or updates;

23 (5) hold periodic meetings with the officials list-
24 ed in subsection (a) at intervals to be determined by
25 the Attorney General; and

1 (6) report to Congress in accordance with sec-
 2 tion 6.

3 (c) METHODS.—In carrying out the duties under sub-
 4 section (b), the Attorney General shall—

5 (1) consult relevant interested individuals and
 6 entities; and

7 (2) make decisions using data that is based on
 8 the best available statistical and empirical evidence.

9 **SEC. 4. POST-SENTENCING RISK AND NEEDS ASSESSMENT**
 10 **SYSTEM.**

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

14 **“§ 3621A. Post-sentencing risk and needs assessment**
 15 **system**

16 “(a) IN GENERAL.—Not later than 180 days after
 17 the date of the enactment of this section, the Attorney
 18 General shall develop and release for use by the Bureau
 19 of Prisons an offender risk and needs assessment system,
 20 to be known as the ‘Post-Sentencing Risk and Needs As-
 21 sessment System’, which shall provide risk and needs as-
 22 sessment tools (developed under subsection (b)) in order
 23 to—

24 “(1) classify the recidivism risk level of all pris-
 25 oners as low, moderate, or high as part of the intake

1 process, and ensure that low-risk prisoners are
 2 grouped with low-risk prisoners in all housing and
 3 assignment decisions;

4 “(2) assign covered prisoners to appropriate re-
 5 cidivism reduction programs or productive activities
 6 based on that classification, the specific criminogenic
 7 needs of the covered prisoner, and in accordance
 8 with subsection (c);

9 “(3) reassess the recidivism risk level of covered
 10 prisoners periodically using an appropriate reassess-
 11 ment tool, and reassign the covered prisoner to ap-
 12 propriate recidivism reduction programs or produc-
 13 tive activities based on the revised classification, the
 14 specific criminogenic needs of the covered prisoner,
 15 and the successful completion of recidivism reduction
 16 programs in accordance with subsection (d); and

17 “(4) determine when a covered prisoner who
 18 has been classified as having a low recidivism risk
 19 level is qualified and eligible to transfer to prerelease
 20 custody in accordance with subsection (d).

21 “(b) RISK AND NEEDS ASSESSMENT TOOLS.—

22 “(1) IN GENERAL.—The Attorney General
 23 shall—

24 “(A) adapt the Federal Post Conviction
 25 Risk Assessment Tool developed and utilized by

1 the Administrative Office of the United States
2 Courts in order to develop suitable risk and
3 needs assessment tools to be used under the
4 System described under subsection (a) by using
5 the research and data analysis required under
6 section 3(b)(3) of the Federal Prison Reform
7 Act of 2013 (in accordance with the methods
8 required under section 3(c) of the Federal Pris-
9 on Reform Act of 2013) to make the most ef-
10 fective and efficient tools to accomplish the as-
11 sessments, assignments and reassessments de-
12 scribed in paragraphs (1) through (4) of sub-
13 section (a); and

14 “(B) ensure that the risk and needs as-
15 sessment tool to be used in the reassessments
16 described in subsection (a)(3) measures indica-
17 tors of progress and improvement, and of re-
18 gression, including newly acquired skills, atti-
19 tude, and behavior changes over time.

20 “(2) USE OF EXISTING RISK AND NEEDS AS-
21 SESSMENT TOOLS PERMITTED.—In carrying out this
22 subsection, the Attorney General may determine
23 that—

24 “(A) other existing risk and needs assess-
25 ment tools are sufficiently effective and efficient

1 for the purpose of accomplishing the assess-
2 ments and reassessments described in para-
3 graphs (1) through (4) of subsection (a); and

4 “(B) the tools described in subparagraph
5 (A) shall be used under the System instead of
6 developing new tools.

7 “(3) VALIDATION ON PRISONERS.—In carrying
8 out this subsection, the Attorney General shall sta-
9 tistically validate any tools that are selected for use
10 under the System on the Federal prison population,
11 or ensure that the tools have been so validated.

12 “(c) ASSIGNMENT OF RECIDIVISM REDUCTION PRO-
13 GRAMS OR PRODUCTIVE ACTIVITIES.—The System shall
14 provide guidance on the kind and amount of recidivism
15 reduction programming or productive activities assigned
16 for each classification of prisoner and shall provide—

17 “(1) that, after the end of the phase-in period
18 described in section 3621(h)(3), the higher the risk
19 level of a covered prisoner, the more recidivism re-
20 duction programming the covered prisoner shall par-
21 ticipate in, according to the covered prisoner’s spe-
22 cific criminogenic needs;

23 “(2) that low-, moderate-, and high-risk covered
24 prisoners may be separated during programming in

1 accordance with practices for effective recidivism re-
2 duction;

3 “(3) information on best practices concerning
4 the tailoring of recidivism reduction programs to the
5 specific criminogenic needs of each covered prisoner
6 so as to best lower each covered prisoner’s risk of
7 recidivating;

8 “(4) that a covered prisoner who has been clas-
9 sified as low risk and without need of recidivism re-
10 duction programming shall participate in productive
11 activities, including prison jobs, in order to remain
12 classified as low risk;

13 “(5) that a covered prisoner who successfully
14 completes all recidivism reduction programming to
15 which the covered prisoner was assigned shall par-
16 ticipate in productive activities, including a prison
17 job; and

18 “(6) that each covered prisoner shall participate
19 in and successfully complete recidivism reduction
20 programming or productive activities, including pris-
21 on jobs, throughout the entire term of incarceration
22 of the covered prisoner.

23 “(d) RECIDIVISM REDUCTION PROGRAM AND PRO-
24 DUCTIVE ACTIVITY INCENTIVES AND REWARDS.—The
25 System shall provide the following incentives and rewards

1 to covered prisoners that have successfully completed re-
2 civism reduction programs and successfully completed
3 productive activities:

4 “(1) FAMILY PHONE AND VISITATION PRIVI-
5 LEGES.—A covered prisoner who has successfully
6 completed a recidivism reduction program or a pro-
7 ductive activity shall receive, for use with family (in-
8 cluding extended family), close friends, mentors, and
9 religious leaders—

10 “(A) up to 30 minutes per day, and up to
11 900 minutes per month that the covered pris-
12 oner is permitted to use the phone; and

13 “(B) additional time for visitation at the
14 penal or correctional facility in which the cov-
15 ered prisoner is imprisoned, as determined by
16 the person in charge of the penal or correctional
17 facility.

18 “(2) TIME CREDITS.—

19 “(A) IN GENERAL.—A covered prisoner
20 who has successfully completed a recidivism re-
21 duction program or productive activity shall re-
22 ceive time credits as follows:

23 “(i) LOW RISK.—A covered prisoner
24 who has been classified as having a low
25 risk of recidivism shall earn 30 days of

1 time credits for each period of 30 days
2 during which the covered prisoner has par-
3 ticipated in a recidivism reduction program
4 or productive activity that the covered pris-
5 oner has successfully completed.

6 “(ii) MODERATE RISK.—A covered
7 prisoner who has been classified as having
8 a moderate risk of recidivism shall earn 15
9 days of time credits for each period of 30
10 days during which the covered prisoner has
11 participated in a recidivism reduction pro-
12 gram or productive activity that the cov-
13 ered prisoner has successfully completed.

14 “(iii) HIGH RISK.—A covered prisoner
15 who has been classified as having a high
16 risk of recidivism shall earn 8 days of time
17 credits for each period of 30 days during
18 which the covered prisoner has participated
19 in a recidivism reduction program or pro-
20 ductive activity that the covered prisoner
21 has successfully completed.

22 “(B) AVAILABILITY.—A covered prisoner
23 may not receive time credits under this para-
24 graph for a recidivism reduction program or

1 productive activity that the covered prisoner has
2 successfully completed—

3 “(i) before the date of the enactment
4 of this section; or

5 “(ii) during official detention before
6 the date on which the covered prisoner’s
7 sentence commences under section
8 3585(a).

9 “(C) PRERELEASE CUSTODY.—

10 “(i) IN GENERAL.—A covered prisoner
11 who is classified as having a low risk of re-
12 cidivism, who has earned time credits in an
13 amount that is equal to the remainder of
14 the covered prisoner’s imposed term of im-
15 prisonment, and who the person in charge
16 of the penal or correctional facility in
17 which the covered prisoner is imprisoned
18 determines is otherwise qualified for
19 prerelease custody, shall be eligible to be
20 transferred into prerelease custody in ac-
21 cordance with section 3624(c)(3).

22 “(ii) GUIDELINES.—The System shall
23 include guidelines, for use by the Bureau
24 of Prisons and the Office of Probation and
25 Pretrial Services, for prisoners placed in

1 halfway houses or home confinement under
2 section 3624(c)(3), for different levels of
3 supervision, requirements and con-
4 sequences based on the prisoner's conduct,
5 including electronic monitoring, work, com-
6 munity service, crime victim restoration ac-
7 tivities, sanctions and a return to prison
8 with a reassessment of recidivism risk level
9 under the System as a result of certain be-
10 havior, which shall be consistent with a
11 structured sanctions model that consist-
12 ently and swiftly punishes violations and
13 uses mild sanctions in order to improve
14 compliance and success rates and reduce
15 recidivism rates.

16 “(D) INELIGIBLE PRISONERS.—A covered
17 prisoner shall be ineligible to receive time cred-
18 its under this section if the covered prisoner—

19 “(i) has been convicted of any Federal
20 crime of terrorism, as that term is defined
21 under section 2332b(g)(5);

22 “(ii) is detained on any charge related
23 to a Federal crime of terrorism, as that
24 term is defined under section 2332b(g)(5);

1 “(iii) has been convicted of a Federal
2 crime under section 276(a) of the Immi-
3 gration and Nationality Act (8 U.S.C.
4 1326(a)), relating to the reentry of a re-
5 moved alien, but only if the alien is de-
6 scribed in paragraph (1) or (2) of sub-
7 section (b) of that section;

8 “(iv) has been convicted of any Fed-
9 eral crime of violence, as that term is de-
10 fined under section 16;

11 “(v) has been convicted of any Fed-
12 eral sex crime, as that term is defined
13 under section 3509;

14 “(vi) has been convicted of any Fed-
15 eral crime involving child exploitation, as
16 that term is defined under section 2 of the
17 PROTECT Our Children Act of 2008 (42
18 U.S.C. 17601); or

19 “(vii) has been convicted of more than
20 2 Federal crimes arising from more than 1
21 course of conduct.

22 “(3) RISK REASSESSMENTS AND LEVEL AD-
23 JUSTMENT.—A covered prisoner who has success-
24 fully completed recidivism reduction programming or
25 successfully completed productive activities shall re-

1 ceive periodic risk reassessments with an appropriate
2 reassessment tool (with high and moderate risk level
3 covered prisoners receiving more frequent risk reassessments), and if the reassessment shows that the
4 covered prisoner's risk level or specific needs have
5 changed, the Bureau of Prisons shall update the covered
6 prisoner's risk level or information regarding
7 the covered prisoner's specific needs and reassign
8 the covered prisoner to appropriate recidivism reduction
9 programs or productive activities based on such
10 changes, and provide the applicable time credits to
11 the covered prisoner.
12

13 “(4) RELATION TO OTHER INCENTIVE PROGRAMS.—The incentives described in this subsection
14 shall be in addition to any other rewards or incentives for which a covered prisoner may be eligible,
15 except that a covered prisoner shall not be eligible
16 for the time credits described in paragraph (2) if
17 that covered prisoner has accrued time credits under
18 another provision of law based solely upon participation in, or successful completion of, such program.
19 “(e) PENALTIES.—The System shall provide guidelines for the Bureau of Prisons to reduce rewards earned
20 under subsection (d) for covered prisoners who violate the
21 rules of the penal or correctional facility in which the cov-

22 “(e) PENALTIES.—The System shall provide guide-
23 lines for the Bureau of Prisons to reduce rewards earned
24 under subsection (d) for covered prisoners who violate the
25 rules of the penal or correctional facility in which the cov-

1 ered prisoner is imprisoned, a recidivism reduction pro-
2 gram, or a productive activity, which shall provide—

3 “(1) general levels of violations and resulting
4 reward reductions;

5 “(2) that any reward reduction that includes
6 the forfeiture of time credits shall be limited to time
7 credits that a covered prisoner earned as of the date
8 of the covered prisoner’s rule violation, and not ap-
9 plicable to any subsequent credits that the covered
10 prisoner may earn; and

11 “(3) guidelines for the Bureau of Prisons to es-
12 tablish a procedure to restore time credits that a
13 covered prisoner forfeited as a result of a rule viola-
14 tion based on the covered prisoner’s individual
15 progress after the date of the rule violation.

16 “(f) BUREAU OF PRISONS TRAINING.—The Attorney
17 General shall develop training protocols and programs for
18 Bureau of Prisons officials and employees responsible for
19 administering the System, which shall include—

20 “(1) initial training to educate employees and
21 officials on how to use the System in an appropriate
22 and consistent manner, as well as the reasons for
23 using the System;

24 “(2) continuing education; and

25 “(3) periodic training updates.

1 “(g) QUALITY ASSURANCE.—In order to ensure that
 2 the Bureau of Prisons is using the System in an appro-
 3 priate and consistent manner, the Attorney General shall
 4 monitor and assess the use of the System, which shall in-
 5 clude conducting periodic audits of Bureau of Prisons fa-
 6 cilities regarding the use of the System, and shall ensure
 7 the development of risk and needs indicators and measure-
 8 ment processes that are both reliable and valid.

9 “(h) DETERMINATIONS AND CLASSIFICATIONS
 10 UNREVIEWABLE.—There shall be no right of review, right
 11 of appeal, cognizable property interest, or cause of action,
 12 either administrative or judicial, arising from any deter-
 13 mination or classification made by any Federal agency or
 14 employee while implementing or administering the System,
 15 or any rules or regulations promulgated under this section.

16 “(i) DEFINITIONS.—In this section:

17 “(1) COVERED PRISONER.—The term ‘covered
 18 prisoner’ means a prisoner who is not ineligible to
 19 receive time credits under this section pursuant to
 20 subsection (d)(2)(D).

21 “(2) PRISONER.—The term ‘prisoner’ means a
 22 person who has been sentenced to a term of impris-
 23 onment pursuant to a conviction for a Federal crimi-
 24 nal offense.

1 “(3) PRODUCTIVE ACTIVITY.—The term ‘pro-
2 ductive activity’—

3 “(A) means a group or individual activity,
4 including participation in a job as part of a
5 prison work program, that is designed to allow
6 prisoners classified as having a low risk of re-
7 cidivism to remain productive and thereby
8 maintain a low-risk classification; and

9 “(B) may include the delivery of the activi-
10 ties described in paragraph (4)(C) to other pris-
11 oners.

12 “(4) RECIDIVISM REDUCTION PROGRAM.—The
13 term ‘recidivism reduction program’ means a group
14 or individual activity that—

15 “(A) has been shown by empirical evidence
16 to reduce recidivism;

17 “(B) is designed to help prisoners succeed
18 in their communities upon release from prison;
19 and

20 “(C) may include—

21 “(i) classes on social learning and life
22 skills;

23 “(ii) classes on morals or ethics;

24 “(iii) academic classes;

25 “(iv) cognitive behavioral treatment;

- 1 “(v) mentoring;
- 2 “(vi) substance abuse treatment;
- 3 “(vii) vocational training;
- 4 “(viii) faith-based classes or services;
- 5 “(ix) victim-impact classes, victim-of-
- 6 fender dialogue, or other restorative justice
- 7 programs; and
- 8 “(x) a prison job.

9 “(5) RISK AND NEEDS ASSESSMENT TOOL.—
 10 The term ‘risk and needs assessment tool’ means an
 11 objective and statistically validated method through
 12 which information is collected and evaluated to de-
 13 termine—

14 “(A) the level of risk that a prisoner will
 15 recidivate upon release from prison; and

16 “(B) the recidivism reduction programs
 17 that will best minimize or reduce the risk that
 18 a particular prisoner will recidivate upon release
 19 from prison.

20 “(6) SUCCESSFULLY COMPLETED.—The term
 21 ‘successfully completed’—

22 “(A) means that—

23 “(i) as determined by the person in
 24 charge of the penal or correctional facility
 25 of the Bureau of Prisons in which the cov-

1 ered prisoner is imprisoned, that the cov-
2 ered prisoner—

3 “(I) regularly attended the recidi-
4 vism reduction program or productive
5 activity;

6 “(II) actively engaged and par-
7 ticipated in the recidivism reduction
8 program or productive activity;

9 “(III) completed all assignments
10 or tasks in a manner that has allowed
11 the covered prisoner to realize the
12 criminogenic benefits of the recidivism
13 reduction program or productive activ-
14 ity;

15 “(IV) did not regularly engage in
16 disruptive behavior that seriously un-
17 dermined the administration of a re-
18 cidivism reduction program or produc-
19 tive activity; and

20 “(V) satisfied the requirements
21 of subclauses (I) through (IV) for a
22 time period that has allowed the cov-
23 ered prisoner to realize the
24 criminogenic benefits of the recidivism

1 reduction program or productive activ-
2 ity; and

3 “(ii) the covered prisoner satisfied the
4 requirements of subparagraph (A) for a
5 time period of not less than 30 days; and

6 “(B) shall not be construed to mean that
7 the covered prisoner is no longer participating
8 in the particular recidivism reduction program
9 or productive activity, if—

10 “(i) the covered prisoner has satisfied
11 the requirements of clauses (i) and (ii) of
12 subparagraph (A); and

13 “(ii) the recidivism reduction program
14 or productive activity will continue to help
15 the covered prisoner to further reduce risk
16 level of the covered prisoner, or maintain
17 the risk level of the covered prisoner.

18 “(7) SYSTEM.—The term ‘System’ means the
19 Post-Sentencing Risk and Needs Assessment System
20 established under subsection (a).

21 “(8) TIME CREDIT.—The term ‘time credit’
22 means the equivalent of 1 day of a prisoner’s sen-
23 tence, such that a prisoner shall be eligible for 1 day
24 of prerelease custody for each credit earned.”.

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

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

5 **SEC. 5. RECIDIVISM REDUCTION PROGRAM AND PRODUC-**
 6 **TIVE ACTIVITY RECOMMENDATIONS.**

7 The Attorney General shall—

8 (1) review the effectiveness of recidivism reduc-
 9 tion programs and productive activities, including
 10 prison jobs, that exist as of the date of the enact-
 11 ment of this Act in facilities operated by the Bureau
 12 of Prisons;

13 (2) review available information regarding the
 14 effectiveness of recidivism reduction programs and
 15 productive activities, including prison jobs, that exist
 16 in State-operated prisons throughout the United
 17 States, provided that the Attorney General shall
 18 make no rule or regulation requiring any State gov-
 19 ernment to provide information for, or participate
 20 in, such review;

21 (3) conduct or fund research to evaluate estab-
 22 lished programs offered through organizations that
 23 do not rely on Federal funding in order to dem-
 24 onstrate the effectiveness of such programs in reduc-
 25 ing recidivism;

1 (4) identify the most effective recidivism reduc-
2 tion programs that are evidence-based;

3 (5) survey all Federal agencies to determine
4 which products purchased by the agencies could be
5 manufactured by prisoners participating in a prison
6 work program without reducing job opportunities for
7 workers in the United States who are not in the cus-
8 tody of the Bureau of Prisons; and

9 (6) make recommendations to the Bureau of
10 Prisons regarding—

11 (A) replication of the most effective recidi-
12 vism reduction programs that are evidence-
13 based;

14 (B) the expansion of effective, evidence-
15 based recidivism reduction programming capac-
16 ity;

17 (C) the expansion of productive activities,
18 including prison jobs; and

19 (D) the addition of any new effective pro-
20 grams and activities that the Attorney General
21 finds, using the methods described in section
22 3(c), would help to reduce recidivism.

23 **SEC. 6. REPORTS.**

24 (a) ANNUAL REPORTS.—Not later than January 1,
25 2015, and every January 1 thereafter, the Attorney Gen-

1 eral, in consultation with the inspector general of the De-
2 partment of Justice, shall submit to the appropriate com-
3 mittees of Congress a report that contains the following:

4 (1) A summary of the activities and accomplish-
5 ments of the Attorney General in carrying out this
6 Act and the amendments made by this Act.

7 (2) An assessment of the status and use of the
8 System by the Bureau of Prisons, including the
9 number of prisoners classified at each risk level
10 under the System at each facility of the Bureau of
11 Prisons.

12 (3) A summary and assessment of the types
13 and effectiveness of the recidivism reduction pro-
14 grams and productive activities in facilities operated
15 by the Bureau of Prisons, including—

16 (A) evidence about which programs and ac-
17 tivities have been shown to reduce recidivism;

18 (B) the capacity of each program and ac-
19 tivity at each facility, including the number of
20 prisoners along with the risk level of each pris-
21 oner enrolled in each program and activity; and

22 (C) identification of any problems or short-
23 ages in capacity of such programs and activi-
24 ties, and how these should be remedied.

1 (4) An assessment of the Bureau of Prisons
2 compliance with section 3621(h) of title 18, United
3 States Code, as added by section 7 of this Act.

4 (5) An assessment of progress made toward
5 carrying out the purposes of this Act, including any
6 savings associated with—

7 (A) the transfer of low-risk prisoners into
8 prerelease custody under this Act and the
9 amendments made by this Act; and

10 (B) any decrease in recidivism that may be
11 attributed to the implementation of the System
12 or the increase in recidivism reduction pro-
13 grams and productive activities required by this
14 Act and the amendments made by this Act.

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

22 (1) a strategy to expand the availability of such
23 programs without reducing job opportunities for
24 workers in the United States who are not in the cus-
25 tody of the Bureau of Prisons;

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

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

11 (c) SAVINGS REPORTS.—Not later than 180 days
12 after the date of enactment of this Act, and every year
13 thereafter, the Attorney General shall submit to the appro-
14 priate committees of Congress a report containing—

15 (1) an analysis of current and projected savings
16 associated with this Act and the amendments made
17 by this Act; and

18 (2) a strategy to reinvest a portion of such sav-
19 ings into expansions of recidivism reduction pro-
20 grams and productive activities, including prison
21 work programs, by the Bureau of Prisons.

1 **SEC. 7. USE OF SYSTEM AND RECOMMENDATIONS BY BU-**
2 **REAU OF PRISONS.**

3 (a) IMPLEMENTATION OF SYSTEM GENERALLY.—
4 Section 3621 of title 18, United States Code, is amended
5 by adding at the end the following:

6 “(h) POST-SENTENCING RISK AND NEEDS ASSESS-
7 MENT SYSTEM.—

8 “(1) DEFINITIONS.—In this section, the terms
9 ‘covered prisoner’, ‘prisoner’, ‘productive activity’,
10 ‘recidivism reduction program’, ‘risk and needs as-
11 sessment tool’, ‘successfully completed’, ‘System’,
12 and ‘time credit’ have the meanings given such
13 terms in section 3621A.

14 “(2) IMPLEMENTATION.—Not later than 180
15 days after the Attorney General develops and re-
16 leases the System, the Bureau of Prisons shall—

17 “(A) implement the System and complete a
18 risk and needs assessment for each prisoner, re-
19 gardless of the prisoner’s length of imposed
20 term of imprisonment; and

21 “(B) expand the effective recidivism reduc-
22 tion programs and productive activities offered
23 by the Bureau of Prisons and add any new re-
24 cidivism reduction program or productive activ-
25 ity necessary to effectively implement the Sys-
26 tem, in accordance with the recommendations

1 made by the Attorney General under section 5
2 of the Federal Prison Reform Act of 2013 and
3 with paragraph (3).

4 “(3) PHASE-IN.—In order to carry out para-
5 graph (2), so that every covered prisoner has the op-
6 portunity to complete the kind and amount of recidi-
7 vism reduction programming the covered prisoner is
8 assigned or participate in productive activities in
9 order to effectively implement the System and that
10 is recommended by the Attorney General, the Bu-
11 reau of Prisons shall, subject to the availability of
12 appropriations, develop and operate such recidivism
13 reduction programs and productive activities—

14 “(A) for not less than 20 percent of cov-
15 ered prisoners by the date that is 1 year after
16 the date on which the Bureau of Prisons com-
17 pletes a risk and needs assessment for each
18 prisoner under paragraph (2)(A);

19 “(B) for not less than 40 percent of cov-
20 ered prisoners by the date that is 2 years after
21 the date on which the Bureau of Prisons com-
22 pletes a risk and needs assessment for each
23 prisoner under paragraph (2)(A);

24 “(C) for not less than 60 percent of cov-
25 ered prisoners by the date that is 3 years after

1 the date on which the Bureau of Prisons com-
2 pletes a risk and needs assessment for each
3 prisoner under paragraph (2)(A);

4 “(D) for not less than 80 percent of cov-
5 ered prisoners by the date that is 4 years after
6 the date on which the Bureau of Prisons com-
7 pletes a risk and needs assessment for each
8 prisoner under paragraph (2)(A); and

9 “(E) for all covered prisoners by the date
10 that is 5 years after the date on which the Bu-
11 reau of Prisons completes a risk and needs as-
12 sessment for each prisoner under paragraph
13 (1)(A) and thereafter.

14 “(4) PRIORITY DURING PHASE-IN.—During the
15 phase-in period described in paragraph (3), the pri-
16 ority for such programs and activities shall be ac-
17 corded based on, in order, the following:

18 “(A) RECIDIVISM RISK LEVEL.—The re-
19 cidivism risk level of covered prisoners (as de-
20 termined using a risk and needs assessment
21 tool under the system), with low-risk covered
22 prisoners receiving first priority, moderate-risk
23 covered prisoners receiving second priority, and
24 high-risk covered prisoners receiving last pri-
25 ority.

1 “(B) RELEASE DATE.—Within each such
2 risk level, a covered prisoner’s proximity to re-
3 lease date.

4 “(5) PRELIMINARY EXPANSION OF RECIDIVISM
5 REDUCTION PROGRAMS AND AUTHORITY TO USE IN-
6 CENTIVES.—On and after the date of enactment of
7 the Federal Prison Reform Act of 2013, the Bureau
8 of Prisons may—

9 “(A) expand any recidivism reduction pro-
10 gram or productive activity in effect at a facility
11 of the Bureau of Prisons as of such date; and

12 “(B) offer to a covered prisoner who has
13 successfully completed such programming and
14 activities the incentives and rewards described
15 in—

16 “(i) section 3621A(d)(1); and

17 “(ii) section 3621A(d)(2)(A), except a
18 covered prisoner may receive up to 30 days
19 of time credits for each period of 30 days
20 during which the covered prisoner partici-
21 pated in a recidivism reduction program or
22 productive activity that the covered pris-
23 oner successfully completed, with the
24 amount of time credits to be determined by
25 the person in charge of the penal or correc-

1 tional facility in which the covered prisoner
2 is imprisoned.

3 “(6) RECIDIVISM REDUCTION PARTNERSHIPS.—
4 Not later than 180 days after the date of enactment
5 of this subsection, the Attorney General shall issue
6 regulations requiring the person in charge of each
7 penal or correctional facility of the Bureau of Pris-
8 ons to expand the availability of recidivism reduction
9 programming and productive activities by entering
10 into partnerships with each of the following:

11 “(A) Nonprofit organizations, including
12 faith-based and community-based organizations,
13 that will deliver recidivism reduction program-
14 ming in the facility, on a paid or volunteer
15 basis.

16 “(B) Institutions of higher education (as
17 defined in section 101 of the Higher Education
18 Act of 1965 (20 U.S.C. 1001) that will deliver
19 academic classes in the facility, on a paid or
20 volunteer basis.

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

23 “(i) deliver vocational training and
24 certifications in the facility;

1 “(ii) provide equipment to facilitate
2 vocational training or employment opportu-
3 nities for prisoners;

4 “(iii) employ prisoners; or

5 “(iv) assist prisoners in prerelease
6 custody or supervised release in finding
7 employment.

8 “(7) PENALTIES.—Effective on January 1,
9 2015, and every January 1 thereafter, if the most
10 recent report submitted by the Attorney General
11 under section 6(a) of the Federal Prison Reform Act
12 of 2013 indicates that the Bureau of Prisons has
13 failed to implement the System or complete a risk
14 and needs assessment for each prisoner, or has
15 failed to expand the recidivism reduction programs
16 and productive activities offered by the Bureau of
17 Prisons and add any new recidivism reduction pro-
18 grams and productive activities necessary to effec-
19 tively implement the System, in accordance with
20 paragraphs (2) through (6), the amount available
21 for the then current fiscal year for salaries and ex-
22 penses for the Central Office (Headquarters) of the
23 Bureau of Prisons shall be reduced to the amount
24 equal to 95 percent of the amount available for such

1 salaries and expenses for the most recent fiscal year
 2 (including any reduction under this paragraph).”.

3 (b) PRERELEASE CUSTODY.—

4 (1) IN GENERAL.—Section 3624(c) of title 18,
 5 United States Code, is amended—

6 (A) by redesignating paragraphs (3)
 7 through (6) as paragraphs (4) through (7), re-
 8 spectively; and

9 (B) by inserting after paragraph (2) the
 10 following:

11 “(3) PRISONERS WITH A LOW RISK OF
 12 RECIDIVATING.—

13 “(A) DEFINITIONS.—In this paragraph—

14 “(i) the term ‘qualified prisoner’
 15 means a prisoner who has—

16 “(I) been classified under the
 17 System as having a low risk of
 18 recidivating;

19 “(II) earned time credits in an
 20 amount that is equal to the remainder
 21 of the prisoner’s imposed term of im-
 22 prisonment; and

23 “(III) been classified by the per-
 24 son in charge of the penal or correc-
 25 tional facility of the Bureau of Pris-

1 ons in which the prisoner is impris-
2 oned as otherwise qualified to be
3 transferred into prerelease custody;
4 and

5 “(ii) the terms ‘prisoner’, ‘System’,
6 and ‘time credit’ have the meanings given
7 such terms in section 3621A.

8 “(B) RECOMMENDATION.—The person in
9 charge of the penal or correctional facility of
10 the Bureau of Prisons in which a qualified pris-
11 oner is imprisoned shall submit a recommenda-
12 tion, with a statement of the rationale and all
13 supporting documentation, including the quali-
14 fied prisoner’s full behavioral record, that the
15 qualified prisoner be transferred into prerelease
16 custody to the United States district court in
17 which the qualified prisoner was convicted, and
18 a judge for such court shall, not later than 60
19 days after the submission of the recommenda-
20 tion, approve or deny such recommendation.

21 “(C) STANDARD.—A judge may only deny
22 a recommendation to transfer a qualified pris-
23 oner into prerelease custody under this para-
24 graph if the judge finds by a preponderance of
25 the evidence that the qualified prisoner should

not be transferred into prerelease custody based only on evidence of the actions of the qualified prisoner after the conviction of the qualified prisoner, including the behavioral record of the qualified prisoner, and not based on evidence from the underlying conviction.

“(D) FAILURE TO RULE.—The failure of a judge to approve or deny a recommendation to transfer at the end of the 60-day period described in subparagraph (B) shall be deemed as an approval of such recommendation.

“(E) APPROVAL.—If a recommendation relating to a qualified prisoner is approved under subparagraph (B) or deemed approved under subparagraph (D)—

“(i) the qualified prisoner shall be placed in a halfway house or sent to home confinement, if that qualified prisoner will be able to stay in a residence approved by the person in charge of the penal or correctional facility of the Bureau of Prisons in which a qualified prisoner is imprisoned; and

“(ii) the time limits under paragraphs (1) and (2) shall not apply.

1 “(F) SUPERVISION.—

2 “(i) IN GENERAL.—The Director of
3 the Bureau of Prisons, in conjunction with
4 the Assistant Director for the Office of
5 Probation and Pretrial Services, shall en-
6 sure that a qualified prisoner placed in
7 home confinement under subparagraph (E)
8 shall be supervised by probation officers
9 and remain in home confinement until the
10 qualified prisoner has served not less than
11 85 percent of the imposed term of impris-
12 onment of the qualified prisoner.

13 “(ii) HOME CONFINEMENT SUPER-
14 VISION SYSTEM.—The Assistant Director
15 for the Office of Probation and Pretrial
16 Services shall implement a home confine-
17 ment supervision system for all qualified
18 prisoners placed in prerelease custody pur-
19 suant to transfers awarded under this
20 paragraph that shall—

21 “(I) use the most cost-effective
22 electronic monitoring systems avail-
23 able, which shall be procured using a
24 competitive bidding process;

1 “(II) be adapted to the best prac-
2 tices of State criminal justice systems
3 using electronically monitored home
4 confinement as an alternative to in-
5 carceration;

6 “(III) allow probation officers to
7 continuously monitor the locational
8 status of each qualified prisoner
9 placed in home confinement pursuant
10 to a transfer awarded under this
11 paragraph; and

12 “(IV) not exceed a cost, including
13 administrative expenses, of \$16 per
14 day per qualified prisoner in home
15 confinement pursuant to a transfer
16 awarded under this paragraph.

17 “(G) LEVEL OF SUPERVISION.—The per-
18 son in charge of the penal or correctional facil-
19 ity of the Bureau of Prisons in which a quali-
20 fied prisoner is imprisoned or a probation offi-
21 cer shall use the guidelines developed by the At-
22 torney General under section 3621A(d)(2)(C) to
23 determine the level of supervision and con-
24 sequences for certain actions for a qualified

1 prisoner transferred into prerelease custody
2 under this paragraph.

3 “(H) MENTORING SERVICES.—Any person
4 that provided mentoring services to a qualified
5 prisoner placed in a halfway house or in home
6 confinement while the qualified prisoner was in
7 a penal or correctional facility of the Bureau of
8 Prisons shall be permitted to continue such
9 services after the qualified prisoner has been
10 transferred into prerelease custody, unless the
11 person in charge of the penal or correctional fa-
12 cility of the Bureau of Prisons demonstrates, in
13 a written document submitted to the person,
14 that such services would be a significant secu-
15 rity risk to the qualified prisoner, persons who
16 provide such services, or any other person.

17 “(I) DETERMINATIONS AND CLASSIFICA-
18 TIONS UNREVIEWABLE.—There shall be no
19 right of review, right of appeal, cognizable prop-
20 erty interest, or cause of action, either adminis-
21 trative or judicial, arising from any determina-
22 tion or classification made under this para-
23 graph, or any rules or regulations promulgated
24 under this paragraph.”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall—

3 (A) take effect on the date of enactment of
4 this Act; and

5 (B) apply on and after the date on which
6 the Attorney General implements the System.

7 **SEC. 8. DEFINITIONS.**

8 In this Act:

9 (1) APPROPRIATE COMMITTEES OF CON-
10 GRESS.—The term “appropriate committees of Con-
11 gress” means—

12 (A) the Committee on the Judiciary and
13 the Subcommittee on Commerce, Justice,
14 Science, and Related Agencies of the Committee
15 on Appropriations of the Senate; and

16 (B) the Committee on the Judiciary and
17 the Subcommittee on Commerce, Justice,
18 Science, and Related Agencies of the Committee
19 on Appropriations of the House of Representa-
20 tives.

21 (2) COVERED PRISONER.—The term “covered
22 prisoner” means a prisoner who is not ineligible to
23 receive time credits under section 3621A of title 18,
24 United States Code pursuant to subsection
25 (d)(2)(D) of such section.

1 (3) PRISONER.—The term “prisoner” means a
2 person who has been sentenced to a term of impris-
3 onment pursuant to a conviction for a Federal crimi-
4 nal offense.

5 (4) PRODUCTIVE ACTIVITY.—The term “pro-
6 ductive activity”—

7 (A) means a group or individual activity,
8 including participation in a job as part of a
9 prison work program, that is designed to allow
10 prisoners classified as having a low risk of re-
11 cidivism to remain productive and thereby
12 maintain a low-risk classification; and

13 (B) may include the delivery of the activi-
14 ties described in paragraph (5)(C) to other pris-
15 oners.

16 (5) RECIDIVISM REDUCTION PROGRAM.—The
17 term “recidivism reduction program” means a group
18 or individual activity that—

19 (A) has been shown by empirical evidence
20 to reduce recidivism;

21 (B) is designed to help prisoners succeed
22 in their communities upon release from prison;
23 and

24 (C) may include—

- 1 (i) classes on social learning and life
- 2 skills;
- 3 (ii) classes on morals or ethics;
- 4 (iii) academic classes;
- 5 (iv) cognitive behavioral treatment;
- 6 (v) mentoring;
- 7 (vi) substance abuse treatment;
- 8 (vii) vocational training;
- 9 (viii) faith-based classes or services;
- 10 (ix) victim-impact classes, victim-of-
- 11 fender dialogue, or other restorative justice
- 12 programs; and
- 13 (x) a prison job.

14 (6) RISK AND NEEDS ASSESSMENT TOOL.—The
 15 term “risk and needs assessment tool” means an ob-
 16 jective and statistically validated method through
 17 which information is collected and evaluated to de-
 18 termine—

19 (A) the level of risk that a prisoner will
 20 recidivate upon release from prison; and

21 (B) the recidivism reduction programs that
 22 will best minimize or reduce the risk that a par-
 23 ticular prisoner will recidivate upon release
 24 from prison.

1 (7) SUCCESSFULLY COMPLETED.—The term
2 “successfully completed”—

3 (A) means that—

4 (i) as determined by the person in
5 charge of the penal or correctional facility
6 of the Bureau of Prisons in which the cov-
7 ered prisoner is imprisoned, that the cov-
8 ered prisoner—

9 (I) regularly attended the recidi-
10 vism reduction program or productive
11 activity;

12 (II) actively engaged and partici-
13 pated in the recidivism reduction pro-
14 gram or productive activity;

15 (III) completed all assignments
16 or tasks in a manner that has allowed
17 the covered prisoner to realize the
18 criminogenic benefits of the recidivism
19 reduction program or productive activ-
20 ity;

21 (IV) did not regularly engage in
22 disruptive behavior that seriously un-
23 dermined the administration of a re-
24 cidivism reduction program or produc-
25 tive activity; and

- 1 (V) satisfied the requirements of
2 subclauses (I) through (IV) for a time
3 period that has allowed the covered
4 prisoner to realize the criminogenic
5 benefits of the recidivism reduction
6 program or productive activity; and
7 (ii) the covered prisoner satisfied the
8 requirements of subparagraph (A) for a
9 time period of not less than 30 days; and
10 (B) shall not be construed to mean that
11 the covered prisoner is no longer participating
12 in the particular recidivism reduction program
13 or productive activity, if—
14 (i) the covered prisoner has satisfied
15 the requirements of clauses (i) and (ii) of
16 subparagraph (A); and
17 (ii) the recidivism reduction program
18 or productive activity will continue to help
19 the covered prisoner to further reduce risk
20 level of the covered prisoner, or maintain
21 the risk level of the covered prisoner.
22 (8) SYSTEM.—The term “System” means the
23 Post-Sentencing Risk and Needs Assessment System
24 established under section 3621A of title 18, United
25 States Code, as added by section 4 of this Act.

1 (9) TIME CREDIT.—The term “time credit”
2 means the equivalent of 1 day of a prisoner’s sen-
3 tence, such that a prisoner shall be eligible for 1 day
4 of prerelease custody for each credit earned.

○