

114TH CONGRESS  
1ST SESSION

# H. R. 3543

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

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2015

Mr. GRIJALVA (for himself, Mr. GRAYSON, Mr. ELLISON, Mr. SMITH of Washington, Mr. LOWENTHAL, Ms. JUDY CHU of California, Ms. SCHAKOWSKY, Mrs. NAPOLITANO, Mr. RUSH, Ms. LEE, Mrs. WATSON COLEMAN, Mr. RANGEL, Mr. TAKANO, Ms. MAXINE WATERS of California, Mr. NADLER, Ms. SLAUGHTER, Mr. GUTIÉRREZ, Mr. MEEKS, Mr. HONDA, and Mr. MCGOVERN) 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

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## A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice is Not For  
5 Sale Act of 2015”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act—

3 (1) the term “core correctional services” means  
4 the housing, safeguarding, protecting, and dis-  
5 ciplining of individuals charged with or convicted of  
6 an offense;

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

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

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

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

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

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

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

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

14   **SEC. 4. ELIMINATION OF STATE AND LOCAL CONTRACTS**  
15                   **FOR PRIVATELY RUN PRISONS WITHIN 3**  
16                   **YEARS.**

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

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

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

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

17 **SEC. 5. REINSTATEMENT OF PAROLE.**

18 (a) IN GENERAL.—Chapter 229 of title 18, United  
 19 States Code, is amended by adding at the end the fol-  
 20 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.

## 1                                   **“Subchapter D—Parole**

### 2   **“§ 3631. Definitions**

3           “In this subchapter—

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

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

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

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

12                  “(5) the term ‘eligible prisoner’ means any Fed-  
13           eral prisoner who is eligible for parole under this  
14           title or any other law, including any Federal pris-  
15           oner whose parole has been revoked and who is not  
16           otherwise ineligible for parole;

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

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

4 **“§ 3632. Powers and duties of the Commission**

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

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

12 “(2) create such regions as are necessary to  
13 carry out this subchapter, but in no event less than  
14 5; and

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

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

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

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

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

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

9           “(A) for maintaining proper supervision of  
10     and assistance to such parolees; and

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

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

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

18           “(2) may delegate to hearing examiners any  
19     powers necessary to conduct hearings and pro-  
20     ceedings, take sworn testimony, obtain and make a  
21     record of pertinent information, make findings of  
22     probable cause and issue subpoenas for witnesses or  
23     evidence in parole revocation proceedings, and rec-  
24     ommend disposition of any matters enumerated in  
25     subsection (b), except that any such findings or rec-

1       ommendations shall be based upon the concurrence  
2       of not less than 2 hearing examiners;

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

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

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

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



1 tion relating to the performance of such duties and respon-  
2 sibilities, and shall have 1 vote.

3 **“§ 3633. Powers and duties of the Chairperson**

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

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

10 “(2) appoint, fix the compensation of, assign,  
11 and supervise all personnel employed by the Com-  
12 mission except that—

13 “(A) the appointment of any hearing ex-  
14 aminer shall be subject to approval of the Com-  
15 mission within the first year of such hearing ex-  
16 aminer’s employment; and

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

22 “(3) assign duties among officers and employ-  
23 ees of the Commission, including Commissioners, so  
24 as to balance the workload and provide for orderly  
25 administration;

1           “(4) direct the preparation of requests for ap-  
2           propriations for the Commission, and the use of  
3           funds made available to the Commission;

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

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

14                 “(A) in each such designation the Chair-  
15                 person shall consider years of service, personal  
16                 preference, and fitness; and

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

19          “(7) serve as spokesperson for the Commission  
20          and report annually to each House of Congress on  
21          the activities of the Commission; and

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

1       “(b) OTHER AUTHORITIES.—The Chairperson shall  
2 have the power to—

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

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

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

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

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

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

1           “(7) devise and conduct, in various geographical  
2       locations, seminars, workshops, and training pro-  
3       grams providing continuing studies and instruction  
4       for personnel of Federal, State, and local agencies  
5       and private and public organizations working with  
6       parolees and connected with the parole process; and

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

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

15      **“§ 3634. Time of eligibility for release on parole**

16      “(a) ELIGIBILITY.—

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

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

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

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

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

22                 “(1) designate in the sentence of imprisonment  
23                 imposed a minimum term at the expiration of which  
24                 the defendant shall become eligible for parole, which

1 term may not be more than 33.3 percent of the max-  
2 imum sentence imposed by the court; or

3 “(2) fix the maximum sentence of imprisonment  
4 to be served by the defendant, in which event the  
5 court may specify that the defendant may be re-  
6 leased on parole at such time as the Commission  
7 may determine.

8 “(c) ADDITIONAL INFORMATION.—

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

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

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

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

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

9                   “(II) reduce the sentence of imprisonment;  
10                  and

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

13           “(4) RUNNING OF TERM.—The term of a sen-  
14           tence imposed under paragraph (3) shall run from  
15           the date of original commitment under this sub-  
16           section.

17           “(d) STUDY UPON COMMITMENT.—

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

1 the opinion of the Director would be helpful in deter-  
2 mining the suitability of the prisoner for parole.

3 “(2) CONTENTS.—A report under paragraph  
4 (1) may include—

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

7 “(B) pertinent circumstances of the social  
8 background, capabilities, and mental and phys-  
9 ical health of the prisoner; and

10 “(C) consideration of such other factors as  
11 may be considered pertinent.

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

15 “(e) PROVISION OF INFORMATION.—Upon request of  
16 the Commission, it shall be the duty of the various proba-  
17 tion officers and agencies of the Federal Government to  
18 furnish the Commission—

19 “(1) information available to such officer or  
20 agency concerning any eligible prisoner or parolee;  
21 and

22 “(2) whenever not incompatible with the public  
23 interest, their views and recommendation with re-  
24 spect to any matter within the jurisdiction of the  
25 Commission.



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

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

11   **“§ 3635. Parole determination criteria**

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

16           “(1) the eligible prisoner has substantially ob-  
17 served the rules of the institution or institutions to  
18 which the eligible prisoner has been confined; and

19           “(2) the Commission, upon consideration of the  
20 nature and circumstances of the offense and the his-  
21 tory and characteristics of the eligible prisoner, de-  
22 termines that release would not—

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

25               “(B) jeopardize the public welfare.

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

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

12       “(d) CERTAIN PRISONERS.—

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

18                       “(A) on the date on which the prisoner has  
 19 served 66.6 percent of each consecutive term or  
 20 terms; or

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

24                               “(i) the date described in subpara-  
 25 graph (A); or

1 “(ii) the date on which the prisoner  
2 has served 30 years.

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

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

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

12 **“§ 3636. Information considered**

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

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

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

22 “(3) presentence investigation reports;

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

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

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

7 **“§ 3637. Parole determination proceeding; time**

8 “(a) PROCEEDINGS.—

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

15 “(2) TIMING.—

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

22 “(B) OTHER PROCEEDINGS.—Whenever  
23 feasible, the initial parole determination pro-  
24 ceeding for a prisoner eligible for parole under  
25 section 3634(b)(2) or who was released on pa-

1           role, and whose parole has been revoked, shall  
2           be held not later than 120 days following such  
3           prisoner's imprisonment or reimprisonment in a  
4           Federal institution, as the case may be.

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

8           “(b) NOTICE.—

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

13               “(A) written notice of the time and place  
14               of the proceeding; and

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

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

24          “(c) WITHHOLDING OF CERTAIN MATERIALS.—

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

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

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

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

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

20          “(d) CONSULTATION AND REPRESENTATION.—

21           “(1) IN GENERAL.—During the period before a  
22      parole determination proceeding described in sub-  
23      section (b)(1), an eligible prisoner may consult, as  
24      provided by the Director, with a representative as

1 referred to in paragraph (2), and by mail or other-  
2 wise with any person concerning such proceeding.

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

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

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

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

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

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

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

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

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

15   **“§ 3638. Conditions of parole**

16          “(a) CONDITIONS.—

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

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

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



1 “(i) the nature and circumstances of  
2 the offense; and

3 “(ii) the history and characteristics of  
4 the parolee; and

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

8 “(b) SCOPE OF CONDITIONS.—

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

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

17 “(c) TREATMENT.—

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

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

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

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

14          “(d) MODIFICATION OF CONDITIONS.—

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

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

24               “(3) PERIOD FOR DETERMINATION.—Not later  
25          than 21 days after the end of the 10-day period de-

1 scribed in paragraph (2), the Commission shall act  
2 upon a motion or application to modify conditions of  
3 parole.

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

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

11 **“§ 3639. Jurisdiction of Commission**

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

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

23 “(1) such jurisdiction shall terminate at an ear-  
24 lier date to the extent provided under section  
25 3624(b)(5) or section 3640; and

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

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

22       “(d) OTHER SENTENCES.—The parole of any parolee  
23      shall run concurrently with the period of parole or proba-  
24      tion under any other Federal, State, or local sentence.  
25      Upon the termination of the jurisdiction of the Commis-

1 sion over any parolee, the Commission shall issue a certifi-  
 2 cate of discharge to the parolee and to such other agencies  
 3 as it may determine.

4 **“§ 3640. Early termination of parole**

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

9 “(b) STATUS REVIEWS.—

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

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

21 “(c) TERMINATION AFTER 5 YEARS.—

22 “(1) IN GENERAL.—Five years after a parolee  
 23 is released on parole, the Commission shall termi-  
 24 nate supervision over the parolee unless the Commis-  
 25 sion determines, after a hearing conducted in ac-

1 cordance with the procedures prescribed in section  
2 3643(a)(2), that such supervision should not be ter-  
3 minated because there is a likelihood that the pa-  
4 rolee will engaged in conduct violating any criminal  
5 law.

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

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

19 **“§ 3641. Aliens**

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

23 “(b) ALIENS WITH FINAL ORDERS OF REMOVAL.—  
24 When an alien prisoner subject to a final order of removal  
25 becomes eligible for parole, the Commission may authorize

1 the release of such prisoner and, when parole becomes ef-  
 2 fective, may deliver such prisoner to a duly authorized im-  
 3 migration official for removal.

4 **“§ 3642. Summons to appear or warrant for retaking**  
 5 **of parolee**

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

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

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

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

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

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

1       “(c) NOTICE.—A summons or warrant issued under  
 2 this section shall provide the parolee with written notice  
 3 of—

4               “(1) the conditions of parole imposed under  
 5 section 3638 that the parolee is alleged to have vio-  
 6 lated;

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

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

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

19       **“§ 3643. Revocation of parole**

20       “(a) REVOCATION GENERALLY.—

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

23                       “(A) an alleged parole violator summoned  
 24 or retaken under section 3642 shall be afforded  
 25 the opportunity to have a preliminary hearing



1 at or reasonably near the place of the alleged  
2 parole violation or arrest, without unnecessary  
3 delay, to determine if there is probable cause to  
4 believe that the parolee has violated a condition  
5 of parole;

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

8 “(i) a digest shall be prepared by the  
9 Commission setting forth in writing the  
10 factors considered and the reasons for the  
11 decision; and

12 “(ii) a copy of the digest shall be  
13 given to the parolee within a reasonable  
14 period of time;

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

17 “(i) continuation of revocation pro-  
18 ceedings is not warranted;

19 “(ii) incarceration of the parolee  
20 pending further revocation proceedings is  
21 not warranted by the alleged frequency or  
22 seriousness of such violation or violations;

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

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

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

9 “(2) HEARING PROCEDURES.—For a hearing  
10 held under paragraph (1)—

11 “(A) notice shall be given to the parolee of  
12 the conditions of parole alleged to have been  
13 violated, and the time, place, and purposes of  
14 the scheduled hearing;

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

23 “(C) the parolee shall have an opportunity  
24 to appear and testify, and present witnesses

1           and relevant evidence on his or her own behalf;  
2           and

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

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

1 in which such a parole proceeding is being con-  
2 ducted, or in which such person may be found.

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

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

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

23 “(3) HEARING.—If the Commission determines  
24 that additional information is needed to review a de-  
25 tainer under paragraph (2), a dispositional hearing

1       may be held at the institution in which the parolee  
2       is confined. The parolee shall receive notice of such  
3       hearing, be allowed to appear and testify on his or  
4       her own behalf, and, unless waived, shall have coun-  
5       sel as provided in subsection (a)(2)(B).

6               “(4) RESOLUTION.—Following the review relat-  
7       ing to the disposition of a detainer, the Commission  
8       may—

9                       “(A) let the detainer stand; or

10                      “(B) withdraw the detainer.

11       “(c) CERTAIN ALLEGED PAROLE VIOLATORS.—

12               “(1) REVOCATION HEARING.—

13                      “(A) IN GENERAL.—An alleged parole vio-  
14       lator described in subparagraph (B) shall re-  
15       ceive a revocation hearing within 90 days of the  
16       date of retaking.

17                      “(B) COVERED ALLEGED PAROLE VIOLA-  
18       TORS.—An alleged parole violator described in  
19       this subparagraph is an alleged parole violator  
20       who—

21                      “(i) is summoned or retaken by war-  
22       rant under section 3642 and knowingly  
23       and intelligently waives the right to a hear-  
24       ing under subsection (a);

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

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

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

14 “(d) DISPOSITION.—

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

21 “(A) restore the parolee to supervision;

22 “(B) reprimand the parolee;

23 “(C) modify the conditions of the parole of  
24 the parolee;

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

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

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

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

13          “(B) whether the action is warranted by  
14          the frequency or seriousness of the violation by  
15          the parolee of any other condition or conditions  
16          of parole.

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

1   **“§ 3644. Reconsideration and appeal**

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

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

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

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

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

20           “(1) IN GENERAL.—Any decision made under  
21   subsection (b) which is adverse to the applicant for  
22   reconsideration may be appealed by the individual to  
23   the National Appeals Board by submitting a written  
24   notice of appeal not later than 30 days following the  
25   date on which such decision is rendered.



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

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

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

8 **“§ 3645. Young adult offenders**

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

11           “(1) who has been convicted of a Federal of-  
12 fense; and

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

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

1   **“§ 3646. Applicability of Administrative Procedure**  
2                   **Act**

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

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

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

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

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

1 Act of 1984 under section 235(a) of such Act (18 U.S.C.  
2 3551 note).

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

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

16 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

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

4           (3) Section 3624 of title 18, United States  
5       Code, is amended—

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

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

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

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

19          (5) Chapter 403 of title 18, United States  
20       Code, is amended—

21           (A) by inserting after section 5040 the fol-  
22       lowing:

23       **“§ 5041. Parole**

24           “A juvenile delinquent who has been committed may  
25       be released on parole at any time under such conditions

1 and regulations as the United States Parole Commission  
 2 determines proper in accordance with section 3635.”; and

3 (B) by striking the item relating to section  
 4 5041 and inserting the following:

“5041. Parole.”.

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

**“D. Parole ..... 3631”.**

9 (7) The Controlled Substances Act (21 U.S.C.  
 10 801 et seq.) is amended—

11 (A) in section 401(b)(1) (21 U.S.C.  
 12 841(b)(1))—

13 (i) in subparagraph (A), in the matter  
 14 following clause (viii), by striking the last  
 15 sentence;

16 (ii) in subparagraph (B), in the mat-  
 17 ter following clause (viii), by striking the  
 18 last sentence; and

19 (iii) in subparagraph (C), in the last  
 20 sentence, by striking “, nor shall a person  
 21 so sentenced be eligible for parole during  
 22 the term of such a sentence”;

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

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

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

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

9 (B) in paragraph (2), in the matter fol-  
 10 lowing subparagraph (H), by striking the last  
 11 sentence.

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

15 **SEC. 6. CFPB OVERSIGHT OF PROVIDERS OF MONEY**  
 16 **TRANSFER SERVICES FOR CORRECTIONAL**  
 17 **AND IMMIGRATION DETENTION FACILITIES.**

18 (a) DEFINITIONS.—In this section—

19 (1) the term “Bureau” means the Bureau of  
 20 Consumer Financial Protection;

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

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

1 (A) an individual who is being held, de-  
2 tained, or incarcerated in a correctional facility;  
3 and

4 (B) an individual who is being held in an  
5 immigration detention facility;

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

9 (A) facilitates the electronic transfer of  
10 funds from an individual who is not a covered  
11 inmate to a covered inmate;

12 (B) provides a payment to a covered in-  
13 mate who is being released from a correctional  
14 facility or an immigration detention facility; or

15 (C) provides a payment on behalf of a cov-  
16 ered inmate; and

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

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

7       (c) REQUIREMENT TO ISSUE REGULATIONS.—

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

15          (2) CONSIDERATIONS.—In issuing the final  
16 rules under paragraph (1), the Bureau shall con-  
17 sider—

18           (A) whether there are alternative means  
19 for transferring funds into correctional facilities  
20 and immigration detention facilities;

21           (B) whether those alternatives can reason-  
22 ably be considered comparable;

23           (C) differing cost structures for transfer-  
24 ring funds into correctional facilities and immi-  
25 gration detention facilities; and



1 (D) such other factors as the Bureau may  
2 determine necessary or appropriate.

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

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

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

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

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

20 “(12) The term ‘commission’ means a fee or  
21 other payment by a provider of inmate telephone  
22 and video service to an administrator of a correc-  
23 tional institution, department of correction, or simi-  
24 lar entity, based upon, or partly upon, inmate tele-  
25 phone and video service revenue.

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

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

14          “(15) The term ‘provider of inmate telephone  
15          and video service’ means any common carrier that  
16          provides inmate telephone and video service or any  
17          other person determined by the Commission to be  
18          providing inmate telephone and video service.”.

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

21                 (1) by redesignating subsection (i) as subsection  
22                 (k); and

23                 (2) by inserting after subsection (h) the fol-  
24                 lowing:

1       “(i) REGULATION OF INMATE TELEPHONE AND  
2 VIDEO SERVICE.—

3               “(1) IN GENERAL.—In order to ensure that  
4 charges for inmate telephone and video service are  
5 just, reasonable, and nondiscriminatory, not later  
6 than 1 year after the date of enactment of the Jus-  
7 tice is Not For Sale Act of 2015, the Commission  
8 shall adopt regulations on the use of inmate tele-  
9 phone and video service that—

10               “(A) prescribe a maximum uniform per-  
11 minute compensation rate;

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

14               “(C) prescribe variable maximum com-  
15 pensation rates depending on such factors as  
16 carrier costs, the size of the correctional facility  
17 served, and other relevant factors identified by  
18 the Commission;

19               “(D) require providers of inmate telephone  
20 and video service to offer both collect calling  
21 and debit account services;

22               “(E) address the payment of commissions  
23 by providers of inmate telephone and video  
24 service to administrators of correctional institu-

tions, departments of correction, and similar entities by—

“(i) prohibiting such payments; or

“(ii) limiting commission payments;

“(F) require administrators of correctional institutions, departments of correction, and similar entities to allow more than 1 provider of inmate telephone and video service to provide inmate telephone and video service at a correctional institution so that prisoners have a choice of such providers; and

“(G) prohibit or substantially limit any ancillary fees imposed by a provider of inmate telephone and video service on a user of the service.

“(2) SCOPE.—

“(A) IN GENERAL.—The regulations adopted by the Commission under this subsection—

“(i) shall be technologically neutral;

and

“(ii) shall not jeopardize legitimate security and penological interests.

“(B) IMPACT ON REVENUE.—To the extent the regulations adopted by the Commission

1           under this subsection reduce or eliminate the  
2           revenue derived by administrators of correc-  
3           tional institutions, departments of correction,  
4           and similar entities from the receipt of commis-  
5           sions, such effects of the regulations shall not  
6           be considered to be jeopardizing or otherwise  
7           affecting legitimate security or penological in-  
8           terests.

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

14          “(4) STATE PREEMPTION.—To the extent that  
15          any State, local government, or private correctional  
16          facility requirements are inconsistent with the regu-  
17          lations of the Commission affecting or pertaining to  
18          inmate telephone and video service, including restric-  
19          tions on the payment of commissions based upon in-  
20          mate telephone and video service revenues or earn-  
21          ings, the regulations of the Commission on such  
22          matters shall preempt the State, local government,  
23          or private correctional facility requirements.

1       “(j) INMATE TELEPHONE AND VIDEO SERVICE  
2 FULLY SUBJECT TO SECTIONS 201, 205, 251, 252, AND  
3 276.—

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

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

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

16       (a) IN GENERAL.—Title II of the Department of  
17 Homeland Security Appropriations Act, 2015 (Public Law  
18 114–4) is amended, under the heading “UNITED STATES  
19 IMMIGRATION AND CUSTOMS ENFORCEMENT”, by striking  
20 “*Provided further*, That funding made available under this  
21 heading shall maintain a level of not less than 34,000 de-  
22 tention beds through September 30, 2015:”.

23       (b) DETENTION CAPACITY.—Notwithstanding any  
24 other provision of law, the number of detention beds main-  
25 tained by U.S. Immigration and Customs Enforcement

1 shall be determined by the Secretary of Homeland Secu-  
2 rity and shall be based solely on detention needs.

3 (c) ALTERNATIVES TO DETENTION.—

4 (1) IN GENERAL.—The Secretary of Homeland  
5 Security shall establish nationwide alternatives to  
6 detention programs that incorporate case manage-  
7 ment services in each field office of the Department  
8 of Homeland Security to ensure appearances at im-  
9 migration proceedings and public safety.

10 (2) CONTRACT AUTHORITY.—The Secretary  
11 may contract with nongovernmental community-  
12 based organizations—

13 (A) to conduct screening of detainees;

14 (B) to operate community-based super-  
15 vision programs; and

16 (C) to implement secure alternatives that  
17 allow U.S. Immigration and Customs Enforce-  
18 ment to maintain custody over the alien.

19 (3) ASSESSMENTS.—The Secretary shall regu-  
20 larly assess the demand for alternative to detention  
21 programs and make available sufficient alternative  
22 to detention slots regardless of proximity to available  
23 detention beds. Alternative programs shall offer a  
24 continuum of supervision mechanisms and options,  
25 including community support, depending on an as-

1        assessment of each individual's circumstances. Infor-  
2        mation regarding the amount of slots available in  
3        each area shall be made public.

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

18           (5) CUSTODY.—The Secretary may use alter-  
19        natives to detention programs to maintain custody  
20        over any alien detained under the Immigration and  
21        Nationality Act, except for aliens detained under  
22        section 236A of such Act (8 U.S.C. 1226a). If an  
23        individual is not eligible for release from custody or  
24        detention, the Secretary shall consider the alien for



1 placement in alternative programs that maintain  
2 custody over the alien.

3 (6) VULNERABLE POPULATIONS.—

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

13 (B) CONSIDERATIONS FOR PLACEMENT.—

14 In determining whether to place a detainee in  
15 an alternatives to detention program, the Sec-  
16 retary shall consider whether the detainee is a  
17 member of a vulnerable population. Notwith-  
18 standing section 236 of the Immigration and  
19 Nationality Act (8 U.S.C. 1226), a member of  
20 a vulnerable population whose needs cannot be  
21 adequately met by a detention facility may not  
22 be held in a detention facility unless the Sec-  
23 retary determines such placement is in the in-  
24 terest of national security.

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

2 (a) DEFINITIONS.—In this section:

3 (1) APPLICABLE STANDARDS.—The term “ap-  
4 plicable standards” means the most recent version of  
5 detention standards and detention-related policies  
6 issued by the Secretary or the Director of U.S. Im-  
7 migration and Customs Enforcement.

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

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

22 (c) OVERSIGHT REQUIREMENTS.—

23 (1) ANNUAL INSPECTION.—All detention facili-  
24 ties housing aliens in the custody of the Department  
25 of Homeland Security shall be inspected, for compli-

1       ance with applicable detention standards issued by  
2       the Secretary and other applicable regulations, by—

3               (A) the Secretary of Homeland Security at  
4       least annually; and

5               (B) an independent, third-party auditor at  
6       least biannually.

7       (2) ROUTINE OVERSIGHT.—In addition to the  
8       inspections required under paragraph (1), the Sec-  
9       retary shall conduct routine oversight of the deten-  
10      tion facilities described in paragraph (1), including  
11      unannounced inspections.

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

20      (4) CONSULTATION.—The Secretary shall seek  
21      input from nongovernmental organizations regarding  
22      their independent opinion of specific facilities.

23      (d) COMPLIANCE MECHANISMS.—

24              (1) AGREEMENTS.—

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

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

16          (C) CANCELLATION OF AGREEMENTS.—  
17          Unless the Secretary provides a reasonable ex-  
18          tension to a specific detention facility that is  
19          negotiating in good faith, contracts or agree-  
20          ments with detention facilities that are not  
21          modified within 1 year of the date of the enact-  
22          ment of this Act will be cancelled.

23          (D) PROVISION OF INFORMATION.—In  
24          making modifications under this paragraph, the  
25          Secretary shall require that detention facilities

1 provide to the Secretary all contracts, memo-  
2 randa of agreement, evaluations, and reviews  
3 regarding the facility on a regular basis. The  
4 Secretary shall make these materials publicly  
5 available on a timely and regular basis.

6 (2) FINANCIAL PENALTIES.—

7 (A) REQUIREMENT TO IMPOSE.—Subject  
8 to subparagraph (C), the Secretary shall impose  
9 meaningful financial penalties upon facilities  
10 that fail to comply with applicable detention  
11 standards issued by the Secretary and other ap-  
12 plicable regulations.

13 (B) TIMING OF IMPOSITION.—Financial  
14 penalties imposed under subparagraph (A) shall  
15 be imposed immediately after a facility fails to  
16 achieve an adequate or the equivalent median  
17 score in any performance evaluation.

18 (C) WAIVER.—The requirements of sub-  
19 paragraph (A) may be waived if the facility cor-  
20 rects the noted deficiencies and receives an ade-  
21 quate score in not more than 90 days.

22 (D) MULTIPLE OFFENDERS.—If the Sec-  
23 retary determines that a facility has been per-  
24 sistently and substantially violated the deten-  
25 tion standards issued by the Secretary, includ-

ing by scoring less than adequate or the equivalent median score in 2 consecutive inspections—

(i) the Secretary shall terminate contracts or agreements with such facilities within 60 days; or

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

(e) REPORTING REQUIREMENTS.—

(1) OBJECTIVES.—Not later than June 30 of each year, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the inspection and oversight activities at detention facilities.

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

(A) a description of each detention facility found to be in noncompliance with applicable detention standards issued by the Department of Homeland Security and other applicable regulations;

(B) a description of the actions taken by the Department to remedy any findings of non-

1 compliance or other identified problems, includ-  
2 ing financial penalties, contract or agreement  
3 termination, or facility closure; and

4 (C) information regarding whether the ac-  
5 tions described in subparagraph (B) resulted in  
6 compliance with applicable detention standards  
7 and regulations.

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

9 Section 236 of the Immigration and Nationality Act  
10 (8 U.S.C. 1226) is amended by adding at the end the fol-  
11 lowing:

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

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

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

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

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

24 “(A) shown through an individualized de-  
25 termination to pose a danger to the community

1 which cannot be mitigated by other conditions  
2 of release; and

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

4 “(3) ALTERNATIVES TO DETENTION.—

5 “(A) IN GENERAL.—The Secretary of  
6 Homeland Security shall establish alternatives  
7 to detention programs for family units who are  
8 prohibited from being detained pursuant to  
9 paragraph (1).

10 “(B) EXCEPTION.—Alternatives to deten-  
11 tion programs may not be used if release on  
12 bond or recognizance is determined to be a suf-  
13 ficient measure to ensure appearances at immi-  
14 gration proceedings and public safety.”.

○