

116TH CONGRESS
2D SESSION

H. R. 8980

To provide for the resentencing and expungement of nonviolent offenses for individuals adversely impacted by the War on Drugs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2020

Mr. HALL introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the resentencing and expungement of nonviolent offenses for individuals adversely impacted by the War on Drugs, 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 “Nonviolent Drug
5 Crime Expungement Act of 2020”.

6 **SEC. 2. RESENTENCING AND EXPUNGEMENT.**

7 (a) EXPUNGEMENT OF FEDERAL NONVIOLENT OF-
8 FENSE CONVICTIONS FOR INDIVIDUALS NOT UNDER A
9 CRIMINAL JUSTICE SENTENCE.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of the enactment of this Act, each Federal
3 district shall conduct a comprehensive review and
4 issue an order expunging each conviction or adju-
5 dication of juvenile delinquency for a Federal non-
6 violent offense entered by each Federal court in the
7 district before the date of enactment of this Act, for
8 each individual adversely impacted by the War on
9 Drugs. Each Federal court shall also issue an order
10 expunging any arrests associated with each ex-
11 punged conviction or adjudication of juvenile delin-
12 quency.

13 (2) NOTIFICATION.—To the extent practicable,
14 each Federal district shall notify each individual
15 whose arrest, conviction, or adjudication of delin-
16 quency has been expunged pursuant to this sub-
17 section that their arrest, conviction, or adjudication
18 of juvenile delinquency has been expunged, and the
19 effect of such expungement.

20 (3) RIGHT TO PETITION COURT FOR
21 EXPUNGEMENT.—At any point after the date of en-
22 actment of this Act, any individual adversely im-
23 pacted by the War on Drugs with a prior conviction
24 or adjudication of juvenile delinquency for a Federal
25 nonviolent offense, who is not under a criminal jus-

1 tice sentence, may file a motion for expungement. If
2 the expungement of such a conviction or adjudica-
3 tion of juvenile delinquency is required pursuant to
4 this Act, the court shall expunge the conviction or
5 adjudication, and any associated arrests. If the indi-
6 vidual is indigent, counsel shall be appointed to rep-
7 resent the individual in any proceedings under this
8 subsection.

9 (4) SEALED RECORD.—The court shall seal all
10 records related to a conviction or adjudication of ju-
11 venile delinquency that has been expunged under
12 this subsection. Such records may only be made
13 available by further order of the court.

14 (b) SENTENCING REVIEW FOR INDIVIDUALS UNDER
15 A CRIMINAL JUSTICE SENTENCE.—

16 (1) IN GENERAL.—For any individual adversely
17 impacted by the War on Drugs who is under a
18 criminal justice sentence for a Federal nonviolent of-
19 fense, the court that imposed the sentence shall, on
20 motion of the individual, the Director of the Bureau
21 of Prisons, the attorney for the Government, or the
22 court, conduct a sentencing review hearing. If the in-
23 dividual is indigent, counsel shall be appointed to
24 represent the individual in any sentencing review
25 proceedings under this subsection.

1 (2) POTENTIAL REDUCED RESENTENCING.—

2 After a sentencing hearing under paragraph (1), a
3 court shall—

4 (A) expunge each conviction or adjudica-
5 tion of juvenile delinquency for a Federal non-
6 violent offense entered by the court before the
7 date of enactment of this Act, and any associ-
8 ated arrest;

9 (B) vacate the existing sentence or disposi-
10 tion of juvenile delinquency and, if applicable,
11 impose any remaining sentence or disposition of
12 juvenile delinquency on the individual as if this
13 Act, and the amendments made by this Act,
14 were in effect at the time the offense was com-
15 mitted; and

16 (C) order that all records related to a con-
17 viction or adjudication of juvenile delinquency
18 that has been expunged or a sentence or dis-
19 position of juvenile delinquency that has been
20 vacated under this Act be sealed and only be
21 made available by further order of the court.

22 (c) EFFECT OF EXPUNGEMENT.—An individual who
23 has had an arrest, a conviction, or juvenile delinquency
24 adjudication expunged under this section—

1 (1) may treat the arrest, conviction, or adju-
2 dication as if it never occurred; and

3 (2) shall be immune from any civil or criminal
4 penalties related to perjury, false swearing, or false
5 statements, for a failure to disclose such arrest, con-
6 viction, or adjudication.

7 (d) EXCEPTION.—An individual who at sentencing
8 received an aggravating role adjustment pursuant to
9 United States Sentencing Guideline 3B1.1(a) in relation
10 to a Federal nonviolent offense conviction shall not be eli-
11 gible for expungement of that conviction under this sec-
12 tion.

13 (e) DEFINITIONS.—In this section:

14 (1) The term “expunge” means, with respect to
15 an arrest, a conviction, or a juvenile delinquency ad-
16 judication, the removal of the record of such arrest,
17 conviction, or adjudication from each official index
18 or public record.

19 (2) The term “under a criminal justice sen-
20 tence” means, with respect to an individual, that the
21 individual is serving a term of probation, parole, su-
22 pervised release, imprisonment, official detention,
23 pre-release custody, or work release, pursuant to a
24 sentence or disposition of juvenile delinquency.

1 (3) The term “individual adversely impacted by
2 the War on Drugs” means an individual who has
3 been arrested for or convicted of the sale, possession,
4 use, manufacture, or cultivation of cannabis, co-
5 caine, or crack (except for a conviction involving dis-
6 tribution to a minor), or whose parent, sibling,
7 spouse, or child has been arrested for or convicted
8 of such an offense.

9 (4) The term “nonviolent offense” means an of-
10 fense that—

11 (A) does not have as an element the use,
12 attempted use, or threatened use of physical
13 force against the person or property of another;
14 or

15 (B) is not a felony that by its nature in-
16 volves a substantial risk that physical force
17 against the person or property of another may
18 be used in the course of committing the offense.

19 **SEC. 3. ELIGIBILITY FOR DEPARTMENT OF JUSTICE**
20 **GRANTS.**

21 Beginning in the first fiscal year that begins after
22 the date that is one year after the date of enactment of
23 this Act, in order to be eligible for a grant made by the
24 Department of Justice, a State shall have in place a resen-
25 tencing and expungement program that is substantially

- 1 similar to the program under section 2 for nonviolent of-
- 2 fenses under the laws of that State.

