

Chuck Grassley

115TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. LEE, Mr. WHITEHOUSE, Mr. GRAHAM, Mr. LEAHY, Mr. FLAKE, Mr. BOOKER, Mr. SCOTT, Mrs. FEINSTEIN, and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Sentencing Reform and Corrections Act of 2017”.

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

Sec. 1. Short title; table of contents.

TITLE I—SENTENCING REFORM

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

- Sec. 102. Broadening of existing safety valve.
- Sec. 103. Limitation on application of the 10-year mandatory minimum.
- Sec. 104. Clarification of section 924(e) of title 18, United States Code.
- Sec. 105. Application of Fair Sentencing Act.
- Sec. 106. Mandatory minimum sentences for domestic violence offenses.
- Sec. 107. Minimum term of imprisonment for certain acts relating to the provision of controlled goods or services to terrorists or proliferators of weapons of mass destruction.
- Sec. 108. Inventory of Federal criminal offenses.
- Sec. 109. Fentanyl.

TITLE II—CORRECTIONS ACT

- Sec. 201. Short title.
- Sec. 202. Recidivism reduction programming and productive activities.
- Sec. 203. Post-sentencing risk and needs assessment system.
- Sec. 204. Pre-release custody.
- Sec. 205. Reports.
- Sec. 206. Additional tools to promote recovery and prevent drug and alcohol abuse and dependence.
- Sec. 207. Promoting successful reentry.
- Sec. 208. Parole for juveniles.
- Sec. 209. Compassionate release initiative.
- Sec. 210. Juvenile sealing and expungement.
- Sec. 211. Juvenile solitary confinement.
- Sec. 212. Ensuring accuracy of Federal criminal records.

TITLE III—NATIONAL CRIMINAL JUSTICE COMMISSION ACT

- Sec. 301. Short title.
- Sec. 302. Findings.
- Sec. 303. Establishment of commission.
- Sec. 304. Purpose of the commission.
- Sec. 305. Review, recommendations, and report.
- Sec. 306. Membership.
- Sec. 307. Administration.
- Sec. 308. Funding.
- Sec. 309. Sunset.

1 **TITLE I—SENTENCING REFORM**

2 **SEC. 101. REDUCE AND RESTRICT ENHANCED SENTENCING** 3 **FOR PRIOR DRUG FELONIES.**

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

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

1 “(57) The term ‘serious drug felony’ means an
2 offense described in section 924(e)(2)(A) of title 18,
3 United States Code, for which—

4 “(A) the offender served a term of impris-
5 onment of more than 12 months; and

6 “(B) the offender’s release from any term
7 of imprisonment was within 15 years of the
8 commencement of the instant offense.

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

10 “(A) an offense described in section
11 3559(c)(2)(F) of title 18, United States Code,
12 for which the offender served a term of impris-
13 onment of more than 12 months; and

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

21 (2) in section 401(b)(1) (21 U.S.C.
22 841(b)(1))—

23 (A) in subparagraph (A), in the flush text
24 following clause (viii)—

1 (i) by striking “If any person commits
2 such a violation after a prior conviction for
3 a felony drug offense has become final,
4 such person shall be sentenced to a term of
5 imprisonment which may not be less than
6 20 years” and inserting the following: “If
7 any person commits such a violation after
8 a prior conviction for a serious drug felony
9 or serious violent felony has become final,
10 such person shall be sentenced to a term of
11 imprisonment of not less than 15 years”;
12 and

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

23 (B) in subparagraph (B), in the flush text
24 following clause (viii), by striking “If any per-
25 son commits such a violation after a prior con-

1 viction for a felony drug offense has become
2 final” and inserting the following: “If any per-
3 son commits such a violation after a prior con-
4 viction for a serious drug felony or serious vio-
5 lent felony has become final”.

6 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
7 ACT AMENDMENTS.—Section 1010(b) of the Controlled
8 Substances Import and Export Act (21 U.S.C. 960(b)) is
9 amended—

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

21 (2) in paragraph (2), in the flush text following
22 subparagraph (H), by striking “felony drug offense”
23 and inserting “serious drug felony or serious violent
24 felony”.

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

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

6 (2) PAST CASES.—

7 (A) SENTENCE REDUCTION.—

8 (i) IN GENERAL.—In the case of a de-
9 fendant who, before the date of enactment
10 of this Act, was convicted of an offense for
11 which the penalty is amended by this sec-
12 tion and was sentenced to a term of im-
13 prisonment for the offense, a term of im-
14 prisonment may be reduced only if—

15 (I) the defendant has not been
16 convicted of any serious violent felony;
17 and

18 (II) the sentencing court, on mo-
19 tion of the defendant or the Director
20 of the Bureau of Prisons, or on its
21 own motion, upon prior notice to the
22 Government, after considering the fac-
23 tors set forth in section 3553(a) of
24 title 18, United States Code, the na-
25 ture and seriousness of the danger to

1 any person, the community, or any
2 crime victims, and the post-sentencing
3 conduct of the defendant, finds a re-
4 duction is consistent with this section
5 and the amendments made by this
6 section.

7 (ii) REQUIREMENT.—Any proceeding
8 under this subparagraph shall be subject to
9 section 3771 of title 18, United States
10 Code (commonly known as the “Crime Vic-
11 tims Rights Act”).

12 (B) REQUIREMENT.—For each motion
13 filed under subparagraph (A), the Government
14 shall conduct a particularized inquiry of the
15 facts and circumstances of the original sen-
16 tencing of the defendant in order to assess
17 whether a reduction in sentence would be con-
18 sistent with this section and the amendments
19 made by this section, including a review of any
20 prior criminal conduct or any other relevant in-
21 formation from Federal, State, and local au-
22 thorities.

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

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

1 (1) in subsection (f)—

2 (A) in the matter preceding paragraph

3 (1)—

4 (i) by striking “or section 1010” and

5 inserting “, section 1010”; and

6 (ii) by inserting “, or section 70503 or

7 70506 of title 46” after “963”;

8 (B) by striking paragraph (1) and insert-

9 ing the following:

10 “(1) the defendant does not have—

11 “(A) more than 4 criminal history points,

12 excluding any criminal history points resulting

13 from a 1-point offense, as determined under the

14 sentencing guidelines;

15 “(B) a prior 3-point offense, as determined

16 under the sentencing guidelines; and

17 “(C) a prior 2-point violent offense, as de-

18 termined under the sentencing guidelines;”;

19 (C) after paragraph (5), by inserting the

20 following:

21 “Information disclosed by a defendant under this sub-

22 section may not be used to enhance the sentence of the

23 defendant unless the information relates to a violent of-

24 fense.”; and

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

1 “(g) INADEQUACY OF CRIMINAL HISTORY.—

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

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

19 “(h) DEFINITION OF VIOLENT OFFENSE.—As used
20 in this section, the term ‘violent offense’ means a ‘crime
21 of violence’, as defined in section 16, that is punishable
22 by imprisonment.”.

23 “(b) APPLICABILITY.—The amendments made by this
24 section shall apply only to a conviction entered on or after
25 the date of enactment of this Act.

1 **SEC. 103. LIMITATION ON APPLICATION OF THE 10-YEAR**
2 **MANDATORY MINIMUM.**

3 (a) AMENDMENT.—Section 3553 of title 18, United
4 States Code, as amended by section 102, is amended by
5 adding at the end the following:

6 “(i) LIMITATION ON APPLICABILITY OF CERTAIN
7 STATUTORY MINIMUMS.—Notwithstanding any other pro-
8 vision of law, in the case of a conviction under section 401
9 or 406 of the Controlled Substances Act (21 U.S.C. 841
10 and 846), section 1010 or 1013 of the Controlled Sub-
11 stances Import and Export Act (21 U.S.C. 960 and 963),
12 or section 70503 or 70506 of title 46, for which the statu-
13 tory minimum term of imprisonment is 10 years, the court
14 may impose a sentence as if the statutory minimum term
15 of imprisonment was 5 years, if the court finds at sen-
16 tencing, after the Government has been afforded the op-
17 portunity to make a recommendation, that—

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

24 “(2) the defendant did not use violence or cred-
25 ible threats of violence or possess a firearm or other
26 dangerous weapon (or induce another participant to

1 do so) in connection with the offense, and the of-
2 fense did not result in death or serious bodily injury
3 to any person;

4 “(3) the defendant was not an organizer, lead-
5 er, manager, or supervisor of other participants in
6 the offense, as determined under the sentencing
7 guidelines;

8 “(4) the defendant did not act as an importer,
9 exporter, or high-level distributor or supplier, a
10 wholesaler, or a manufacturer of the controlled sub-
11 stances involved in the offense or engage in a con-
12 tinuing criminal enterprise, as defined in section 408
13 of the Controlled Substances Act (21 U.S.C. 848),
14 unless the defendant was a minor or minimal partic-
15 ipant, as determined under the sentencing guide-
16 lines;

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

20 “(6) not later than the time of the sentencing
21 hearing, the defendant has truthfully provided to the
22 Government all information and evidence the defend-
23 ant has concerning the offense or offenses that were
24 part of the same course of conduct or of a common
25 scheme or plan, but the fact that the defendant has

1 no relevant or useful other information to provide or
2 that the Government is already aware of the infor-
3 mation shall not preclude a determination by the
4 court that the defendant has complied with this re-
5 quirement.

6 Information disclosed by a defendant under this sub-
7 section may not be used to enhance the sentence of the
8 defendant unless the information relates to a violent of-
9 fense.

10 “(j) DEFINITIONS.—As used in subsection (i) of this
11 section—

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

14 “(A) means a defendant who imported, ex-
15 ported, or otherwise distributed or supplied
16 large quantities of a controlled substance to
17 other drug distributors; and

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

21 “(2) the term ‘manufacturer’ means a defend-
22 ant who grew, produced, or manufactured a con-
23 trolled substance and was the principal owner of
24 such controlled substance; and

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

4 (b) APPLICABILITY.—The amendment made by this
5 section shall apply only to a conviction entered on or after
6 the date of enactment of this Act.

7 **SEC. 104. CLARIFICATION OF SECTION 924(c) OF TITLE 18,**
8 **UNITED STATES CODE.**

9 (a) IN GENERAL.—Section 924(c)(1)(C) of title 18,
10 United States Code, is amended, in the matter preceding
11 clause (i), by striking “second or subsequent conviction
12 under this subsection” and inserting “violation of this sub-
13 section that occurs after a prior conviction under this sub-
14 section has become final”.

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

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

21 (2) PAST CASES.—

22 (A) SENTENCE REDUCTION.—

23 (i) IN GENERAL.—In the case of a de-
24 fendant who, before the date of enactment
25 of this Act, was convicted of an offense for

1 which the penalty is amended by this sec-
2 tion and was sentenced to a term of im-
3 prisonment for the offense, a term of im-
4 prisonment may be reduced only if—

5 (I) the instant violation was for a
6 drug trafficking offense that did not
7 involve a violation of clause (ii) or (iii)
8 of section 924(c)(1)(A) of title 18,
9 United States Code;

10 (II) the defendant has not other-
11 wise been convicted of any serious vio-
12 lent felony; and

13 (III) the sentencing court, on
14 motion of the defendant or the Direc-
15 tor of the Bureau of Prisons, or on its
16 own motion, upon prior notice to the
17 Government, after considering the fac-
18 tors set forth in section 3553(a) of
19 title 18, United States Code, the na-
20 ture and seriousness of the danger to
21 any person, the community, or any
22 crime victims, and the post-sentencing
23 conduct of the defendant, finds a re-
24 duction is consistent with this section

1 and the amendments made by this
2 section.

3 (ii) REQUIREMENT.—Any proceeding
4 under this subparagraph shall be subject to
5 section 3771 of title 18, United States
6 Code (commonly known as the “Crime Vic-
7 tims’ Rights Act”).

8 (B) REQUIREMENT.—For each motion
9 filed under subparagraph (A), the Government
10 shall conduct a particularized inquiry of the
11 facts and circumstances of the original sen-
12 tencing of the defendant in order to assess
13 whether a reduction in sentence would be con-
14 sistent with this section and the amendments
15 made by this section, including a review of any
16 prior criminal conduct or any other relevant in-
17 formation from Federal, State, and local au-
18 thorities.

19 **SEC. 105. APPLICATION OF FAIR SENTENCING ACT.**

20 (a) DEFINITION OF COVERED OFFENSE.—In this
21 section, the term “covered offense” means a violation of
22 a Federal criminal statute, the statutory penalties for
23 which were modified by section 2 or 3 of the Fair Sen-
24 tencing Act of 2010 (Public Law 111–220; 124 Stat.
25 2372), that was committed before August 3, 2010.

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

9 (c) LIMITATIONS.—No court shall entertain a motion
10 made under this section to reduce a sentence if the sen-
11 tence was previously imposed or previously reduced in ac-
12 cordance with the amendments made by sections 2 and
13 3 of the Fair Sentencing Act of 2010 (Public Law 111–
14 220; 124 Stat. 2372) or if a previous motion made under
15 this section to reduce the sentence was, after the date of
16 enactment of this Act, denied after a complete review of
17 the motion on the merits. Nothing in this section shall
18 be construed to require a court to reduce any sentence
19 pursuant to this section.

20 **SEC. 106. MANDATORY MINIMUM SENTENCES FOR DOMES-**
21 **TIC VIOLENCE OFFENSES.**

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

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

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

4 “(B) in the case of a violation of section
5 2261A, for life or any term of years;

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

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

10 “(B) in the case of a violation of section
11 2261A, for not more than 20 years;

12 “(3) if serious bodily injury to the victim results
13 or if the offender uses a dangerous weapon during
14 the offense—

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

17 “(B) in the case of a violation of section
18 2261A, for not more than 10 years;”.

19 **SEC. 107. MINIMUM TERM OF IMPRISONMENT FOR CER-**
20 **TAIN ACTS RELATING TO THE PROVISION OF**
21 **CONTROLLED GOODS OR SERVICES TO TER-**
22 **RORISTS OR PROLIFERATORS OF WEAPONS**
23 **OF MASS DESTRUCTION.**

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

1 (1) in subsection (c), by striking “A person”
2 and inserting “Subject to subsection (d), a person”;
3 and

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

5 “(d) MINIMUM TERM OF IMPRISONMENT FOR CER-
6 TAIN ACTS RELATING TO THE PROVISION OF CON-
7 TROLLED GOODS OR SERVICES TO TERRORISTS OR
8 PROLIFERATORS OF WEAPONS OF MASS DESTRUC-
9 TION.—

10 “(1) IN GENERAL.—A person who willfully com-
11 mits, willfully attempts to commit, or willfully con-
12 spires to commit, solicits the commission of, or aids
13 or abets in the commission of, an unlawful act de-
14 scribed in paragraph (2) shall, upon conviction, be
15 imprisoned for a term of not less than 5 years. Not-
16 withstanding any other provision of law, a court
17 shall not place on probation any person sentenced
18 under this subsection.

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

22 “(A) the provision of controlled goods or
23 services to or for the use of—

24 “(i) a state sponsor of terrorism;

1 “(ii) an organization designated as a
2 foreign terrorist organization under section
3 219(a) of the Immigration and Nationality
4 Act (8 U.S.C. 1189(a)); or

5 “(iii) a person on the list of specially
6 designated nationals and blocked persons
7 maintained by the Office of Foreign Assets
8 Control of the Department of the Treas-
9 ury;

10 “(B) the provision of goods or services,
11 without a license or other written approval of
12 the United States Government, to any person in
13 connection with a program or effort of a foreign
14 country or foreign person to develop weapons of
15 mass destruction; or

16 “(C) the provision of defense articles or de-
17 fense services, without a license or other written
18 approval of the Department of State, to, or for
19 the use of, a country subject to an arms embar-
20 go by the United States.

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

22 “(A) CONTROLLED GOODS OR SERVICES.—
23 The term ‘controlled goods or services’ means
24 any article, item, technical data, service, or
25 technology listed or included in—

1 “(i) the United States Munitions List
2 maintained pursuant to part 121 of title
3 22, Code of Federal Regulations;

4 “(ii) the Commerce Control List
5 maintained pursuant to part 774 of title
6 15, Code of Federal Regulations; or

7 “(iii) any successor to the United
8 States Munitions List or the Commerce
9 Control List.

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

16 “(i) an embargo or prohibition exists
17 on the export of defense articles or defense
18 services; or

19 “(ii) the policy of the United States is
20 to deny licenses and other approvals for
21 the export of defense articles and defense
22 services.

23 “(C) DEFENSE ARTICLE; DEFENSE SERV-
24 ICE.—The terms ‘defense article’ and ‘defense
25 service’ have the meanings given those terms in

1 section 47 of the Arms Export Control Act (22
2 U.S.C. 2794).

3 “(D) STATE SPONSOR OF TERRORISM.—
4 The term ‘state sponsor of terrorism’ means
5 any foreign country, or political subdivision,
6 agency, or instrumentality of a foreign country,
7 if the Secretary of State has determined that
8 the government of the country has repeatedly
9 provided support for acts of international ter-
10 rorism pursuant to—

11 “(i) section 6(j)(1)(A) of the Export
12 Administration Act of 1979 (50 U.S.C.
13 App. 2405(j)(1)(A)) (as in effect pursuant
14 to this Act);

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

17 “(iii) section 620A(a) of the Foreign
18 Assistance Act of 1961 (22 U.S.C.
19 2371(a)); or

20 “(iv) any other provision of law.

21 “(E) WEAPON OF MASS DESTRUCTION.—
22 The term ‘weapon of mass destruction’ has the
23 meaning given that term in section 2332a of
24 title 18, United States Code.”

1 **SEC. 108. INVENTORY OF FEDERAL CRIMINAL OFFENSES.**

2 (a) DEFINITIONS.—In this section—

3 (1) the term “criminal regulatory offense”
4 means a Federal regulation that is enforceable by a
5 criminal penalty;

6 (2) the term “criminal statutory offense”
7 means a criminal offense under a Federal statute;
8 and

9 (3) the term “Executive agency”—

10 (A) has the meaning given the term in sec-
11 tion 105 of title 5, United States Code; and

12 (B) includes the United States Postal
13 Service and the Postal Regulatory Commission.

14 (b) REPORT ON CRIMINAL STATUTORY OFFENSES.—

15 Not later than 1 year after the date of enactment of this
16 Act, the Attorney General shall submit to the Committee
17 on the Judiciary of the Senate and the Committee on the
18 Judiciary of the House of Representatives a report, which
19 shall include—

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

23 (2) for each criminal statutory offense listed
24 under paragraph (1) and organized by Federal dis-
25 trict where applicable —

1 (A) the potential criminal penalty for the
2 criminal statutory offense;

3 (B) the number of violations of the crimi-
4 nal statutory offense referred to the Depart-
5 ment of Justice by an Executive agency for
6 prosecution, including referrals from investiga-
7 tive agencies of the Department of Justice, in
8 each of the years during the 15-year period pre-
9 ceeding the date of enactment of this Act;

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

15 (D) the number of prosecutions for the
16 criminal statutory offense brought by the De-
17 partment of Justice that have resulted in con-
18 viction for each year of the 15-year period pre-
19 ceeding the date of enactment of this Act;

20 (E) the number of convictions for the
21 criminal statutory offense that have resulted in
22 imprisonment for each year of the 15-year pe-
23 riod preceding the date of enactment of this
24 Act;

1 (F) the average length of sentence of im-
2 prisonment imposed as a result of conviction for
3 the criminal statutory offense during each year
4 of the 15-year period preceding the date of en-
5 actment of this Act;

6 (G) the mens rea requirement for the
7 criminal statutory offense; and

8 (H) the number of prosecutions for the
9 criminal statutory offense in which the Depart-
10 ment of Justice was not required to prove mens
11 rea as a component of the offense.

12 (c) REPORT ON CRIMINAL REGULATORY OF-
13 FENSES.—Not later than 1 year after the date of enact-
14 ment of this Act, the head of each Executive agency shall
15 submit to the Committee on the Judiciary of the Senate
16 and the Committee on the Judiciary of the House of Rep-
17 resentatives a report, which shall include—

18 (1) a list of all criminal regulatory offenses en-
19 forceable by the agency; and

20 (2) for each criminal regulatory offense listed
21 under paragraph (1)—

22 (A) the potential criminal penalty for a
23 violation of the criminal regulatory offense;

24 (B) the number of violations of the crimi-
25 nal regulatory offense referred to the Depart-

1 ment of Justice for prosecution in each of the
2 years during the 15-year period preceding the
3 date of enactment of this Act;

4 (C) the number of prosecutions for the
5 criminal regulatory offense brought by the De-
6 partment of Justice each year for the 15-year
7 period preceding the date of enactment of this
8 Act;

9 (D) the number of prosecutions for the
10 criminal regulatory offense brought by the De-
11 partment of Justice that have resulted in con-
12 viction for each year of the 15-year period pre-
13 ceding the date of enactment of this Act;

14 (E) the number of convictions for the
15 criminal regulatory offense that have resulted in
16 imprisonment for each year of the 15-year pe-
17 riod preceding the date of enactment of this
18 Act;

19 (F) the average length of sentence of im-
20 prisonment imposed as a result of conviction for
21 the criminal regulatory offense during each year
22 of the 15-year period preceding the date of en-
23 actment of this Act;

24 (G) the mens rea requirement for the
25 criminal regulatory offense; and

1 (H) the number of prosecutions for the
2 criminal regulatory offense in which the De-
3 partment of Justice was not required to prove
4 mens rea as a component of the offense.

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

7 (1) the Attorney General shall establish a pub-
8 lically accessible index of each criminal statutory of-
9 fense listed in the report required under subsection
10 (b) and make the index available and freely acces-
11 sible on the website of the Department of Justice;
12 and

13 (2) the head of each Executive agency shall es-
14 tablish a publically accessible index of each criminal
15 regulatory offense listed in the report required under
16 subsection (c) and make the index available and
17 freely accessible on the website of the agency.

18 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion shall be construed to require or authorize appropria-
20 tions.

21 **SEC. 109. FENTANYL.**

22 (a) CONTROLLED SUBSTANCES ACT AMENDMENT.—
23 Section 401(b) of the Controlled Substances Act (21
24 U.S.C. 841(b)) is amended by adding at the end the fol-
25 lowing:

1 “(8)(A) In the case of a violation of subsection (a),
2 if the mixture or substance containing a detectable
3 amount of heroin also contains a detectable amount of N-
4 phenyl-N-[1-(2-phenylethyl) -4-piperidinyl] propanamide
5 or any analogue of N-phenyl-N-[1-(2-phenylethyl) -4-
6 piperidinyl] propanamide, then a court shall—

7 “(i) not impose a term of probation; and

8 “(ii) in addition to the term of punishment for
9 the violation of this section, impose a term of impris-
10 onment not to exceed 5 years.

11 “(B) A term of imprisonment imposed on a person
12 under subparagraph (A)(ii) may not run concurrently with
13 any term of imprisonment imposed on the person under
14 any other provision of law.

15 “(9)(A) In the case of a violation of subsection (a),
16 if the mixture or substance containing a detectable
17 amount of N-phenyl-N-[1-(2-phenylethyl) -4-piperidinyl]
18 propanamide or any analogue of N-phenyl-N-[1-(2-
19 phenylethyl) -4-piperidinyl] propanamide was represented
20 to be or sold as heroin, then a court shall—

21 “(i) not impose a term of probation; and

22 “(ii) in addition to the term of punishment for
23 the violation of this section, impose a term of impris-
24 onment not to exceed 5 years.

1 “(B) A term of imprisonment imposed on a person
2 under subparagraph (A)(ii) may not run concurrently with
3 any term of imprisonment imposed on the person under
4 any other provision of law.”.

5 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
6 ACT AMENDMENT.—Section 1010(b) of the Controlled
7 Substances Import and Export Act (21 U.S.C. 960(b)) is
8 amended by adding at the end the following:

9 “(8)(A) In the case of a violation of subsection (a),
10 if the mixture or substance containing a detectable
11 amount of heroin also contains a detectable amount of N-
12 phenyl-N-[1-(2-phenylethyl) -4-piperidinyl] propanamide
13 or any analogue of N-phenyl-N-[1-(2-phenylethyl) -4-
14 piperidinyl] propanamide, then a court shall—

15 “(i) not impose a term of probation; and

16 “(ii) in addition to the term of punishment for
17 the violation of this section, impose a term of impris-
18 onment not to exceed 5 years.

19 “(B) A term of imprisonment imposed on a person
20 under subparagraph (A)(ii) may not run concurrently with
21 any term of imprisonment imposed on the person under
22 any other provision of law.

23 “(9)(A) In the case of a violation of subsection (a),
24 if the mixture or substance containing a detectable
25 amount of N-phenyl-N-[1-(2-phenylethyl) -4-piperidinyl]

1 propanamide or any analogue of N-phenyl-N-[1-(2-
2 phenylethyl) -4-piperidinyl] propanamide was represented
3 to be or sold as heroin, then a court shall—

4 “(i) not impose a term of probation; and

5 “(ii) in addition to the term of punishment for
6 the violation of this section, impose a term of impris-
7 onment not to exceed 5 years.

8 “(B) A term of imprisonment imposed on a person
9 under subparagraph (A)(ii) may not run concurrently with
10 any term of imprisonment imposed on the person under
11 any other provision of law.”.

12 **TITLE II—CORRECTIONS ACT**

13 **SEC. 201. SHORT TITLE.**

14 This title may be cited as the “Corrections Oversight,
15 Recidivism Reduction, and Eliminating Costs for Tax-
16 payers In Our National System Act of 2017” or the
17 “CORRECTIONS Act”.

18 **SEC. 202. RECIDIVISM REDUCTION PROGRAMMING AND** 19 **PRODUCTIVE ACTIVITIES.**

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

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

1 including programming and activities offered in State
2 correctional institutions, which shall include a review
3 of research on the effectiveness of such programs;

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

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

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

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

24 “(1) IN GENERAL.—The Director of the Bureau
25 of Prisons, shall, subject to the availability of appro-

1 priations, make available to all eligible prisoners ap-
2 propriate recidivism reduction programming or pro-
3 ductive activities, including prison jobs, in accord-
4 ance with paragraph (2).

5 “(2) EXPANSION PERIOD.—

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

13 “(B) CERTIFICATION.—

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

23 “(ii) CONSIDERATIONS.—In deter-
24 mining whether or not to issue a certifi-
25 cation under clause (i), the National Insti-

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

10 “(3) RECIDIVISM REDUCTION PARTNERSHIPS.—

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

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

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

4 “(C) Nonprofit or other private organiza-
5 tions, including faith-based and community-
6 based organizations, that will—

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

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

13 “(iii) employ prisoners; or

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

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

21 “(4) ASSIGNMENTS.—In assigning prisoners to
22 recidivism reduction programming and productive
23 activities, the Director of the Bureau of Prisons
24 shall use the Post-Sentencing Risk and Needs As-

1 assessment System described in section 3621A and
2 shall ensure that—

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

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

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

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

24 “(5) MENTORING SERVICES.—Any person who
25 provided mentoring services to a prisoner while the

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

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

15 “(A) TIME CREDITS.—

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

1 riod of 30 days of successful completion of
2 such program or activity.

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

8 “(I) before the date of enactment
9 of this subsection; or

10 “(II) during official detention be-
11 fore the date on which the prisoner’s
12 sentence commences under section
13 3585(a).

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

1 mined under the sentencing guidelines, at
2 the time of sentencing, unless the court de-
3 termines in writing at sentencing that the
4 defendant's criminal history category sub-
5 stantially overrepresents the seriousness of
6 the defendant's criminal history or the
7 likelihood that the defendant will commit
8 other crimes and exercises its authority to
9 lower the defendant's criminal history cat-
10 egory. No credit shall be awarded under
11 this subparagraph to any prisoner serving
12 a sentence of imprisonment for conviction
13 for any of the following offenses:

14 “(I) A Federal crime of ter-
15 rorism, as defined under section
16 2332b(g)(5).

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

19 “(III) A Federal sex offense, as
20 described in section 111 of the Sex
21 Offender Registration and Notifica-
22 tion Act (34 U.S.C. 20911).

23 “(IV) Engaging in a continuing
24 criminal enterprise, as defined in sec-

1 tion 408 of the Controlled Substances
2 Act (21 U.S.C. 848).

3 “(V) A Federal fraud offense for
4 which the prisoner received a sentence
5 of imprisonment of more than 15
6 years.

7 “(VI) A Federal crime involving
8 child exploitation, as defined in sec-
9 tion 2 of the PROTECT Our Children
10 Act of 2008 (34 U.S.C. 21101).

11 “(VII) A violation of—

12 “(aa) chapter 11 (relating to
13 bribery, graft, and conflicts of in-
14 terest);

15 “(bb) chapter 29 (relating to
16 elections and political activities);

17 “(cc) section 1028A, 1031,
18 or 1040 (relating to fraud);

19 “(dd) chapter 63 involving a
20 scheme or artifice to deprive an-
21 other of the intangible right of
22 honest services;

23 “(ee) chapter 73 (relating to
24 obstruction of justice);

1 “(ff) chapter 95 or 96 (re-
2 lating to racketeering and rack-
3 eteer influenced and corrupt or-
4 ganizations); or

5 “(gg) chapter 110 (relating
6 to sexual exploitation and other
7 abuse of children).

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

17 “(B) OTHER INCENTIVES.—The Bureau of
18 Prisons shall develop policies to provide appro-
19 priate incentives for successful completion of re-
20 cidivism reduction programming and productive
21 activities, other than time credit pursuant to
22 subparagraph (A), including incentives for pris-
23 oners who are precluded from earning credit
24 under subparagraph (A)(iii). Such incentives
25 may include additional telephone or visitation

1 privileges for use with family, close friends,
2 mentors, and religious leaders.

3 “(C) PENALTIES.—The Bureau of Prisons
4 may reduce rewards a prisoner has previously
5 earned under subparagraph (A) for prisoners
6 who violate the rules of the penal or correc-
7 tional facility in which the prisoner is impris-
8 oned, a recidivism reduction program, or a pro-
9 ductive activity.

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

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

22 “(A) shall be considered to have success-
23 fully completed a recidivism reduction program
24 or productive activity, if the Bureau of Prisons
25 determines that the prisoner—

1 “(i) regularly attended and partici-
2 pated in the recidivism reduction program
3 or productive activity;

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

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

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

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

1 withstanding that the prisoner continues to par-
2 ticipate in such program or activity.

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

4 “(A) ELIGIBLE PRISONER.—The term ‘eli-
5 gible prisoner’ means—

6 “(i) an individual who has been sen-
7 tenced to a term of imprisonment pursuant
8 to a conviction for a Federal criminal of-
9 fense; or

10 “(ii) an individual within the custody
11 of the Bureau of Prisons, including an in-
12 dividual in a Bureau of Prisons contracted
13 facility.

14 “(B) PRODUCTIVE ACTIVITY.—The term
15 ‘productive activity’—

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

23 “(ii) may include the delivery of the
24 activities described in subparagraph
25 (C)(i)(II) to other prisoners.

1 “(C) RECIDIVISM REDUCTION PROGRAM.—

2 The term ‘recidivism reduction program’

3 means—

4 “(i) a group or individual activity

5 that—

6 “(I) has been certified to reduce

7 recidivism or promote successful re-

8 entry; and

9 “(II) may include—

10 “(aa) classes on social learn-

11 ing and life skills;

12 “(bb) classes on morals or

13 ethics;

14 “(cc) academic classes;

15 “(dd) cognitive behavioral

16 treatment;

17 “(ee) mentoring;

18 “(ff) occupational and voca-

19 tional training;

20 “(gg) faith-based classes or

21 services;

22 “(hh) domestic violence edu-

23 cation and deterrence program-

24 ming;

1 “(ii) victim-impact classes or
2 other restorative justice pro-
3 grams;

4 “(jj) industry-sponsored
5 workforce development, edu-
6 cation, or training; and

7 “(kk) a prison job; and

8 “(ii) shall include—

9 “(I) a productive activity; and

10 “(II) recovery programming.

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

20 (c) NO CONSIDERATION OF EARNED TIME CREDIT
21 ELIGIBILITY DURING SENTENCING.—

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

1 (A) by redesignating subsections (b)
2 through (j) as subsections (e) through (k), re-
3 spectively;

4 (B) in subsection (e)(3), as so redesign-
5 nated, by striking “subsection (c)” and insert-
6 ing “subsection (d)”; and

7 (C) by inserting after subsection (a) the
8 following:

9 “(b) In imposing a sentence, the court shall not con-
10 sider the defendant’s eligibility or potential eligibility for
11 credit under section 3621(e), 3621(h), or 3624(b) or any
12 similar provision of law, but shall not be prohibited from
13 informing the defendant of the existence of such credits
14 or related programs.”.

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

18 (A) in subsection (e)(3)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(b) DEVELOPMENT OF SYSTEM.—

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

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

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

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

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

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

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

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

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

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

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

18 “(A) develop a suitable intake assessment
19 tool to perform the initial assessments and de-
20 terminations described in subsection (a)(1); and
21 to make the assignments described in para-
22 graphs (3) and (4) of subsection (a);

23 “(B) develop a suitable reassessment tool
24 to perform the reassessments and updates de-
25 scribed in subsection (a)(5); and

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

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

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

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

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

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

13 “(e) RISK ASSESSMENT.—

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

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

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

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

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

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

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

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

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

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

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

14 “(i) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

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

23 “(2) CREDIT FOR RECIDIVISM REDUCTION.—
24 Notwithstanding the 10 percent limit described in
25 paragraph (1) and in addition to any time spent in

1 prerelease custody pursuant to paragraph (1), a
2 prisoner shall spend an additional portion of the
3 final months of the prisoner's sentence, equivalent to
4 the amount of time credit the prisoner has earned
5 pursuant to section 3621(h)(6)(A), in prerelease cus-
6 tody, if—

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

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

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

1 (3) by redesignating paragraphs (4) through
2 (6) as paragraphs (9) through (11), respectively;

3 (4) by inserting the following after paragraph
4 (3):

5 “(4) HOME CONFINEMENT.—

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

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

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

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

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

1 “(III) participation in community
2 service;

3 “(IV) crime victim restoration ac-
4 tivities;

5 “(V) medical treatment; or

6 “(VI) religious activities; and

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

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

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

24 “(5) COMMUNITY SUPERVISION.—

1 “(A) TIME CREDIT LESS THAN 36
2 MONTHS.—Any prisoner described in subpara-
3 graph (D) who has earned time credit of less
4 than 36 months pursuant to section
5 3621(h)(6)(A) shall be eligible to serve no more
6 than one-half of the amount of such credit on
7 community supervision, if the prisoner satisfies
8 the conditions set forth in subparagraph (C).

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

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

1 “(i) complies with all conditions of
2 prerelease custody;

3 “(ii) remains current on any financial
4 obligations imposed as part of the pris-
5 oner’s sentence, including payments of
6 court-ordered restitution arising from the
7 offense of conviction; and

8 “(iii) refrains from committing any
9 State, local, or Federal offense.

10 “(D) COVERED PRISONERS.—A prisoner
11 described in this subparagraph is a prisoner
12 who—

13 “(i) is classified as low risk by the
14 Post-Sentencing Risk and Needs Assess-
15 ment System in the assessment conducted
16 for purposes of paragraph (2); or

17 “(ii) is subsequently classified as low
18 risk by the Post-Sentencing Risk and
19 Needs Assessment System.

20 “(6) VIOLATIONS.—If a prisoner violates a con-
21 dition of the prisoner’s prerelease custody, the Di-
22 rector of the Bureau of Prisons may revoke the pris-
23 oner’s prerelease custody and require the prisoner to
24 serve the remainder of the prisoner’s term of incar-
25 ceration, or any portion thereof, in prison, or impose

1 additional conditions on the prisoner's prerelease
2 custody as the Director of the Bureau of Prisons
3 deems appropriate. If the violation is nontechnical in
4 nature, the Director of the Bureau of Prisons shall
5 revoke the prisoner's prerelease custody.

6 “(7) CREDIT FOR PRERELEASE CUSTODY.—
7 Upon completion of a prisoner's sentence, any term
8 of supervised release imposed on the prisoner shall
9 be reduced by the amount of time the prisoner
10 served in prerelease custody pursuant to paragraph
11 (2).

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

1 to prerelease custody and shall provide for the trans-
2 fer of monetary sums necessary to comply with such
3 requirements. United States Probation and Pretrial
4 Services shall, to the greatest extent practicable,
5 offer assistance to any prisoner not under its super-
6 vision during prerelease custody under this sub-
7 section.”; and

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

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

24 “(13) ALIENS SUBJECT TO DEPORTATION.—If
25 the prisoner is an alien whose deportation was or-

1 dered as a condition of supervised release or who is
2 subject to a detainer filed by Immigration and Cus-
3 toms Enforcement for the purposes of determining
4 the alien's deportability, the Director of the Bureau
5 of Prisons shall, upon the prisoner's transfer to
6 prerelease custody pursuant to paragraphs (1) and
7 (2), deliver the prisoner to United States Immigra-
8 tion and Customs Enforcement for the purpose of
9 conducting proceedings relating to the alien's depor-
10 tation.

11 “(14) NOTICE OF TRANSFER TO PRERELEASE
12 CUSTODY.—

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

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

1 “(C) CONTENTS OF NOTICE.—The notice
2 required under subparagraph (A) shall include
3 the following information:

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

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

8 “(iii) The nature of the prisoner’s
9 planned prerelease custody.

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

11 “(v) The most recent risk assessment
12 of the prisoner.

13 “(D) HEARING.—

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

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

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

3 “(I) shall set forth the basis for
4 the Government’s request that the
5 prisoner’s transfer be denied or modi-
6 fied pursuant to subparagraph (E);
7 and

8 “(II) shall not require the Court
9 to conduct a hearing described in
10 clause (i).

11 “(iv) JUSTICE DEPARTMENT REVIEW
12 OF TRANSFERS TO PRERELEASE CUS-
13 TODY.—If the Department of Justice does
14 not seek a hearing under this subpara-
15 graph to deny or modify a prisoner’s trans-
16 fer to prerelease custody, the Department
17 of Justice prior to such transfer shall
18 make a determination to that effect in
19 writing, including the reasons for that de-
20 termination.

21 “(E) DETERMINATION OF THE COURT.—
22 The court may deny the transfer of the prisoner
23 to prerelease custody or modify the terms of
24 such transfer, if, after conducting a hearing
25 pursuant to subparagraph (D), the court finds

1 in writing, by a preponderance of the evidence,
2 that the transfer of the prisoner is inconsistent
3 with the factors specified in paragraphs (2),
4 (6), and (7) of section 3553(a).”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall take effect 1 year after the date of enact-
7 ment of this Act.

8 **SEC. 205. REPORTS.**

9 (a) **ANNUAL REPORTS.**—

10 (1) **REPORTS.**—Not later than 1 year after the
11 date of enactment of this Act, and each year there-
12 after, the Attorney General, in coordination with the
13 Comptroller General of the United States, shall sub-
14 mit to the appropriate committees of Congress a re-
15 port that contains the following:

16 (A) A summary of the activities and ac-
17 complishments of the Attorney General in car-
18 rying out this title and the amendments made
19 by this title.

20 (B) An assessment of the status and use
21 of the Post-Sentencing Risk and Needs Assess-
22 ment System developed under section 3621A of
23 title 18, United States Code, as added by this
24 title, by the Bureau of Prisons, including the
25 number of prisoners classified at each risk level

1 under the Post-Sentencing Risk and Needs As-
2 sessment System at each facility of the Bureau
3 of Prisons.

4 (C) A summary and assessment of the
5 types and effectiveness of the recidivism reduc-
6 tion programs and productive activities in facili-
7 ties operated by the Bureau of Prisons, includ-
8 ing—

9 (i) evidence about which programs
10 and activities have been shown to reduce
11 recidivism;

12 (ii) the capacity of each program and
13 activity at each facility, including the num-
14 ber of prisoners along with the risk level of
15 each prisoner enrolled in each program and
16 activity; and

17 (iii) identification of any problems or
18 shortages in capacity of the programs and
19 activities, and how those problems or
20 shortages in capacity should be remedied.

21 (D) An assessment of budgetary savings
22 resulting from this Act and the amendments
23 made by this Act, including—

24 (i) a summary of the amount of sav-
25 ings resulting from the transfer of pris-

1 oners into prerelease custody under this
2 title and the amendments made by this
3 title, including savings resulting from the
4 avoidance or deferral of future construc-
5 tion, acquisition, or operations costs;

6 (ii) a summary of the amount of sav-
7 ings resulting from any decrease in recidi-
8 vism that may be attributed to the imple-
9 mentation of the Post-Sentencing Risk and
10 Needs Assessment System or the increase
11 in recidivism reduction programs and pro-
12 ductive activities required by this title and
13 the amendments made by this title;

14 (iii) a strategy to reinvest the savings
15 described in clauses (i) and (ii) in other—

16 (I) Federal, State, and local law
17 enforcement activities; and

18 (II) expansions of recidivism re-
19 duction programs and productive ac-
20 tivities in the Bureau of Prisons; and

21 (iv) a description of how the reduced
22 expenditures on Federal corrections and
23 the budgetary savings resulting from this
24 Act, and the amendments made by this

1 Act, are currently being used and will be
2 used to—

3 (I) increase investment in law en-
4 forcement and crime prevention to
5 combat gangs of national significance
6 and high-level drug traffickers
7 through the High Intensity Drug
8 Trafficking Areas Program and other
9 task forces;

10 (II) hire, train, and equip law en-
11 forcement officers and prosecutors;
12 and

13 (III) promote crime reduction
14 programs using evidence-based prac-
15 tices and strategic planning to help
16 reduce crime and criminal recidivism.

17 (2) REINVESTMENT OF SAVINGS TO FUND PUB-
18 LIC SAFETY PROGRAMMING.—

19 (A) IN GENERAL.—Beginning in the first
20 fiscal year after the first report is submitted
21 under paragraph (1), and each fiscal year
22 thereafter, the Attorney General shall—

23 (i) determine the covered amount for
24 the previous fiscal year in accordance with
25 subparagraph (B); and

1 (ii) use an amount of funds appro-
2 priated to the Department of Justice that
3 is not less than 90 percent of the covered
4 amount for the purposes described in sub-
5 paragraph (C).

6 (B) COVERED AMOUNT.—For purposes of
7 this paragraph, the term “covered amount”
8 means, using the most recent report submitted
9 under paragraph (1), the amount equal to the
10 sum of—

11 (i) the amount described in clause (i)
12 of paragraph (1)(D) for the fiscal year;
13 and

14 (ii) the amount described in clause (ii)
15 of paragraph (1)(D) for the fiscal year.

16 (C) USE OF FUNDS.—The funds described
17 in subparagraph (A)(ii) shall be used, con-
18 sistent with clause (iii) of paragraph (1)(D), to
19 achieve each of the following objectives:

20 (i) Ensure that, not later than 6 years
21 after the date of enactment of this Act, re-
22 cidivism reduction programs or productive
23 activities are available to all eligible pris-
24 oners, as defined in section 3621(h)(8) of

1 title 18, United States Code, as added by
2 this title.

3 (ii) Ensure compliance with the re-
4 source needs of United States Probation
5 and Pretrial Services resulting from an
6 agreement under section 3624(c)(8) of title
7 18, United States Code, as added by this
8 title.

9 (iii) Supplement funding for programs
10 that increase public safety by providing re-
11 sources to State and local law enforcement
12 officials, including for the adoption of in-
13 novative technologies and information
14 sharing capabilities.

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

21 (1) a strategy to expand the availability of
22 those programs without reducing job opportunities
23 for workers in the United States who are not in the
24 custody of the Bureau of Prisons;

1 (2) an assessment of the feasibility of expand-
2 ing those 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 described in paragraphs (1) and (2).

11 (c) REPORTING ON RECIDIVISM RATES.—

12 (1) IN GENERAL.—Beginning 1 year after the
13 date of enactment of this Act, and each year there-
14 after, the Attorney General, in consultation with the
15 Administrative Office of the United States Courts,
16 shall report to the appropriate committees of Con-
17 gress on rates of recidivism among individuals who
18 have been released from Federal prison and who are
19 under judicial supervision.

20 (2) CONTENTS.—The report required under
21 paragraph (1) shall contain information on rates of
22 recidivism among former Federal prisoners, includ-
23 ing information on rates of recidivism among former
24 Federal prisoners based on the following criteria:

25 (A) Primary offense charged.

1 (B) Length of sentence imposed and
2 served.

3 (C) Bureau of Prisons facility or facilities
4 in which the prisoner's sentence was served.

5 (D) Recidivism reduction programming
6 that the prisoner successfully completed, if any.

7 (E) The prisoner's assessed risk of recidi-
8 vism.

9 (3) ASSISTANCE.—The Administrative Office of
10 the United States Courts shall provide to the Attor-
11 ney General any information in its possession that is
12 necessary for the completion of the report required
13 under paragraph (1).

14 (d) REPORTING ON EXCLUDED PRISONERS.—

15 (1) ATTORNEY GENERAL REPORT.—Not later
16 than 8 years after the date of enactment of this Act,
17 the Attorney General shall submit to the appropriate
18 committees of Congress a report on the effectiveness
19 of recidivism reduction programs and productive ac-
20 tivities offered to prisoners—

21 (A) described in section 3621(h)(6)(A)(iii)
22 of title 18, United States Code, as added by
23 this title; or

1 (B) ineligible for credit toward prerelease
2 custody under section 3624(c)(2) of title 18,
3 United States Code, as added by this title.

4 (2) CONGRESSIONAL REVIEW.—Upon receipt of
5 the report under paragraph (1), the appropriate
6 committees of Congress shall review the effectiveness
7 of different categories of incentives in reducing re-
8 cidivism.

9 (e) DEFINITION.—For purposes of this section, the
10 term “appropriate committees of Congress” means—

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

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

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

22 (a) REENTRY AND RECOVERY PLANNING.—

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

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

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

6 “(b) REENTRY AND RECOVERY PLANNING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 one-half the amount of the reduction awarded
2 to the prisoner under such subparagraph (B).”.

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

6 (1) IN GENERAL.—Not later than 2 years after
7 the date of enactment of this Act, the Administrative
8 Office of the United States Courts shall establish a
9 recidivism reduction and recovery enhancement pilot
10 program (referred to in this subsection as the “pilot
11 program”), premised on high-intensity supervision
12 and the use of swift, predictable, and graduated
13 sanctions for noncompliance with program rules, in
14 Federal judicial districts selected by the Administra-
15 tive Office of the United States Courts in consulta-
16 tion with the Attorney General.

17 (2) REQUIREMENTS OF PROGRAM.—Participa-
18 tion in the pilot program shall be subject to the fol-
19 lowing requirements:

20 (A) Upon entry of participants into the
21 pilot program, the court shall notify the pro-
22 gram participants of the rules of the program
23 and consequences for violating such rules, in-
24 cluding the penalties to be imposed as a result

1 of such violations pursuant to subparagraph
2 (E).

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

6 (C) If a probation officer determines that
7 a participant has violated a term of supervised
8 release, the officer shall notify the court within
9 24 hours of such determination, absent good
10 cause.

11 (D) As soon as is practicable, and not later
12 than 7 days after the violation was reported by
13 the probation officer, absent good cause, the
14 court shall conduct a hearing on the alleged vio-
15 lation.

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

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

1 (ii) Referral to appropriate substance
2 abuse treatment.

3 (iii) Revocation of the participant's
4 supervised release and the imposition of a
5 sentence of incarceration that is no longer
6 than necessary to punish the participant
7 for such violation and deter the participant
8 from committing future violations.

9 (iv) For participants who habitually
10 fail to abide by program rules or pose a
11 threat to public safety, termination from
12 the program.

13 (3) STATUS OF PARTICIPANT IF INCARCER-
14 ATED.—

15 (A) IN GENERAL.—If a program partici-
16 pant is sentenced to incarceration as described
17 in paragraph (2)(E)(iii), the participant shall
18 remain in the program upon release from incar-
19 ceration unless terminated from the program
20 under paragraph (2)(E)(iv).

21 (B) POLICIES FOR MAINTAINING EMPLOY-
22 MENT.—The Bureau of Prisons, in consultation
23 with the Chief Probation Officers of the Federal
24 judicial districts selected for participation in the
25 pilot program, shall develop policies to enable

1 program participants sentenced to terms of in-
2 carceration as described in paragraph
3 (2)(E)(iii) to, where practicable, serve the terms
4 of incarceration while maintaining employment,
5 including allowing the terms of incarceration to
6 be served on weekends.

7 (4) ADVISORY SENTENCING POLICIES.—

8 (A) IN GENERAL.—The United States Sen-
9 tencing Commission, in consultation with the
10 Chief Probation Officers, United States Attor-
11 neys, Federal Defenders, and Chief Judges of
12 the districts selected for participation in the
13 pilot program, shall establish advisory sen-
14 tencing policies to be used by the district courts
15 in imposing sentences of incarceration in ac-
16 cordance with paragraph (2)(E)(iii).

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

23 (5) DURATION OF PROGRAM.—The pilot pro-
24 gram shall continue for not less than 5 years and

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

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

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

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

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

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

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

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

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

4 **SEC. 207. PROMOTING SUCCESSFUL REENTRY.**

5 (a) FEDERAL REENTRY DEMONSTRATION
6 PROJECTS.—

7 (1) EVALUATION OF EXISTING BEST PRACTICES
8 FOR REENTRY.—Not later than 2 years after the
9 date of enactment of this Act, the Attorney General,
10 in consultation with the Administrative Office of the
11 United States Courts, shall—

12 (A) evaluate best practices used for the re-
13 entry into society of individuals released from
14 the custody of the Bureau of Prisons, including
15 by—

16 (i) examining reentry practices in
17 Federal, State, and local justice systems;
18 and

19 (ii) consulting with Federal, State,
20 and local prosecutors, Federal, State, and
21 local public defenders, nonprofit organiza-
22 tions that provide reentry services, and
23 criminal justice experts; and

24 (B) submit to the Committee on the Judi-
25 ciary of the Senate and the Committee on the

1 Judiciary of the House of Representatives a re-
2 port that details the evaluation conducted under
3 subparagraph (A).

4 (2) CREATION OF REENTRY DEMONSTRATION
5 PROJECTS.—Not later than 3 years after the date of
6 enactment of this Act, the Attorney General, in con-
7 sultation with the Administrative Office of the
8 United States Courts, shall, subject to the avail-
9 ability of appropriations, select an appropriate num-
10 ber of Federal judicial districts in which to conduct
11 Federal reentry demonstration projects using the
12 best practices identified in the evaluation conducted
13 under paragraph (1), which may include Federal ju-
14 dicial districts with existing reentry programs. The
15 Attorney General shall determine the appropriate
16 number of Federal judicial districts in which to con-
17 duct demonstration projects under this paragraph.

18 (3) PROJECT DESIGN.—For each Federal judi-
19 cial district selected under paragraph (2), the United
20 States Attorney, in consultation with the Chief
21 Judge, the Chief Federal Defender, the Chief Probation
22 Officer, the Bureau of Justice Assistance, the
23 National Institute of Justice, and criminal justice
24 experts, shall design a Federal reentry demonstra-

1 tion project for the Federal judicial district in ac-
2 cordance with paragraph (4).

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

8 (A) the use of community correctional fa-
9 cilities and home confinement, as determined
10 appropriate by the Bureau of Prisons;

11 (B) a reentry review team for each pris-
12 oner to—

13 (i) develop a reentry plan specific to
14 the needs of the prisoner; and

15 (ii) meet with the prisoner following
16 transfer to monitor the reentry plan;

17 (C) steps to assist the prisoner in obtain-
18 ing health care, housing, and employment, be-
19 fore the prisoner's release from a community
20 correctional facility or home confinement;

21 (D) regular drug testing for participants
22 with a history of substance abuse;

23 (E) substance abuse treatment, which may
24 include addiction treatment medication, if ap-
25 propriate, medical treatment, including mental

1 health treatment, occupational, vocational and
2 educational training, apprenticeships, life skills
3 instruction, recovery support, conflict resolution
4 training, and other programming to promote ef-
5 fective reintegration into the community;

6 (F) the participation of volunteers to serve
7 as advisors and mentors to prisoners being re-
8 leased into the community;

9 (G) steps to ensure that the prisoner
10 makes satisfactory progress toward satisfying
11 any obligations to victims of the prisoner's of-
12 fense, including any obligation to pay restitu-
13 tion; and

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

16 (5) REVIEW OF PROJECT OUTCOMES.—Not
17 later than 5 years after the date of enactment of
18 this Act, the Administrative Office of the United
19 States Courts, in consultation with the Attorney
20 General, shall—

21 (A) evaluate the results from each Federal
22 judicial district selected under paragraph (2),
23 including the extent to which participating pris-
24 oners released from the custody of the Bureau
25 of Prisons were successfully reintegrated into

1 their communities, including whether the par-
2 ticipating prisoners maintained employment and
3 refrained from committing further offenses; and

4 (B) submit to the Committee on the Judi-
5 ciary of the Senate and the Committee on the
6 Judiciary of the House of Representatives a re-
7 port that contains—

8 (i) the evaluation of the best practices
9 identified in the report required under
10 paragraph (1); and

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

13 (b) STUDY ON THE IMPACT OF REENTRY ON CER-
14 TAIN COMMUNITIES.—

15 (1) IN GENERAL.—Not later than 2 years after
16 the date of enactment of this Act, the Attorney Gen-
17 eral, in consultation with the Administrative Office
18 of the United States Courts, shall submit to the
19 Committee on the Judiciary of the Senate and the
20 Committee on the Judiciary of the House of Rep-
21 resentatives a report on the impact of reentry of
22 prisoners on communities in which a dispropor-
23 tionate number of individuals reside upon release
24 from incarceration.

1 (2) CONTENTS.—The report required under
2 paragraph (1) shall analyze the impact of reentry of
3 individuals released from both State and Federal
4 correctional systems as well as State and Federal ju-
5 venile justice systems, and shall include—

6 (A) an assessment of the reentry burdens
7 borne by local communities and local law en-
8 forcement agencies;

9 (B) a review of the resources available in
10 such communities to support successful reentry,
11 including resources provided by the Federal
12 Government and State and local governments,
13 and the extent to which those resources are
14 used effectively; and

15 (C) recommendations to strengthen the re-
16 sources in such communities available to sup-
17 port successful reentry and to lessen the burden
18 placed on such communities by the need to sup-
19 port reentry.

20 (c) FACILITATING REENTRY ASSISTANCE TO VET-
21 ERANS.—

22 (1) IN GENERAL.—Not later than 60 days after
23 the date of the commencement of a prisoner's sen-
24 tence pursuant to section 3585(a) of title 18, United
25 States Code, the Director of the Bureau of Prisons

1 shall notify the Secretary of Veterans Affairs and
2 the Secretary of Labor if the prisoner's presentence
3 report, prepared pursuant to section 3552 of title
4 18, United States Code, indicates that the prisoner
5 has previously served in the Armed Forces of the
6 United States or if the prisoner has so notified the
7 Bureau of Prisons.

8 (2) POST-COMMENCEMENT NOTICE.—If a pris-
9 oner informs the Bureau of Prisons of the prisoner's
10 prior service in the Armed Forces of the United
11 States after the commencement of the prisoner's
12 sentence, the Director of the Bureau of Prisons shall
13 notify the Secretary of Veterans Affairs and the Sec-
14 retary of Labor not later than 60 days after the date
15 on which the prisoner provides such notice.

16 (3) CONTENTS OF NOTICE.—The notice pro-
17 vided by the Director of the Bureau of Prisons to
18 the Secretary of Veterans Affairs and the Secretary
19 of Labor under this subsection shall include the
20 identity of the prisoner, the facility in which the
21 prisoner is located, the prisoner's offense of convic-
22 tion, and the length of the prisoner's sentence.

23 (4) ACCESS TO VA AND DOL.—The Bureau of
24 Prisons shall provide the Department of Veterans
25 Affairs and the Department of Labor with reason-

1 able access to any prisoner who has previously
2 served in the Armed Forces of the United States for
3 purposes of facilitating that prisoner's reentry.

4 **SEC. 208. PAROLE FOR JUVENILES.**

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

8 **“§ 5032A. Modification of an imposed term of impris-**
9 **onment for violations of law committed**
10 **prior to age 18**

11 “(a) IN GENERAL.—Notwithstanding any other pro-
12 vision of law, a court may reduce a term of imprisonment
13 imposed upon a defendant convicted as an adult for an
14 offense committed and completed before the defendant at-
15 tained 18 years of age if—

16 “(1) the defendant has served not less than 20
17 years in custody for the offense; and

18 “(2) the court finds, after considering the fac-
19 tors set forth in subsection (c), that the defendant
20 is not a danger to the safety of any person or the
21 community and that the interests of justice warrant
22 a sentence modification.

23 “(b) SUPERVISED RELEASE.—Any defendant whose
24 sentence is reduced pursuant to subsection (a) shall be or-
25 dered to serve a period of supervised release of not less

1 than 5 years following release from imprisonment. The
2 conditions of supervised release and any modification or
3 revocation of the term of supervise release shall be in ac-
4 cordance with section 3583.

5 “(c) FACTORS AND INFORMATION TO BE CONSID-
6 ERED IN DETERMINING WHETHER TO MODIFY A TERM
7 OF IMPRISONMENT.—The court, in determining whether
8 to reduce a term of imprisonment pursuant to subsection
9 (a), shall consider—

10 “(1) the factors described in section 3553(a),
11 including the nature of the offense and the history
12 and characteristics of the defendant;

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

15 “(3) a report and recommendation of the Bu-
16 reau of Prisons, including information on whether
17 the defendant has substantially complied with the
18 rules of each institution in which the defendant has
19 been confined and whether the defendant has com-
20 pleted any educational, vocational, or other prison
21 program, where available;

22 “(4) a report and recommendation of the
23 United States attorney for any district in which an
24 offense for which the defendant is imprisoned was
25 prosecuted;

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

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

8 “(7) any report from a physical, mental, or psy-
9 chiatric examination of the defendant conducted by
10 a licensed health care professional;

11 “(8) the family and community circumstances
12 of the defendant at the time of the offense, including
13 any history of abuse, trauma, or involvement in the
14 child welfare system;

15 “(9) the extent of the role of the defendant in
16 the offense and whether, and to what extent, an
17 adult was involved in the offense;

18 “(10) the diminished culpability of juveniles as
19 compared to that of adults, and the hallmark fea-
20 tures of youth, including immaturity, impetuosity,
21 and failure to appreciate risks and consequences,
22 which counsel against sentencing juveniles to the
23 otherwise applicable term of imprisonment; and

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

1 “(d) LIMITATION ON APPLICATIONS PURSUANT TO
2 THIS SECTION.—

3 “(1) SECOND APPLICATION.—Not earlier than
4 5 years after the date on which an order entered by
5 a court on an initial application under this section
6 becomes final, a court shall entertain a second appli-
7 cation by the same defendant under this section.

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

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

16 “(e) PROCEDURES.—

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

19 “(A) any defendant who has served not
20 less than 19 years in prison for an offense com-
21 mitted and completed before the defendant at-
22 tained 18 years of age for which the defendant
23 was convicted as an adult; and

24 “(B) the sentencing court, the United
25 States attorney, and the Federal Public De-

1 fender or Executive Director of the Community
2 Defender Organization for the judicial district
3 in which the sentence described in subpara-
4 graph (A) was imposed.

5 “(2) CRIME VICTIMS RIGHTS.—Upon receiving
6 notice under paragraph (1), the United States attor-
7 ney shall provide any notifications required under
8 section 3771.

9 “(3) APPLICATION.—

10 “(A) IN GENERAL.—An application for a
11 sentence reduction under this section shall be
12 filed as a motion to reduce the sentence of the
13 defendant and may include affidavits or other
14 written material.

15 “(B) REQUIREMENT.—A motion to reduce
16 a sentence under this section shall be filed with
17 the sentencing court and a copy shall be served
18 on the United States attorney for the judicial
19 district in which the sentence was imposed.

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

21 “(A) EXPANDING THE RECORD.—After the
22 filing of a motion to reduce a sentence under
23 this section, the court may direct the parties to
24 expand the record by submitting additional
25 written materials relating to the motion.

1 “(B) HEARING.—

2 “(i) IN GENERAL.—The court shall
3 conduct a hearing on the motion, at which
4 the defendant and counsel for the defend-
5 ant shall be given the opportunity to be
6 heard.

7 “(ii) EVIDENCE.—In a hearing under
8 this section, the court may allow parties to
9 present evidence.

10 “(iii) DEFENDANT’S PRESENCE.—At
11 a hearing under this section, the defendant
12 shall be present unless the defendant
13 waives the right to be present. The re-
14 quirement under this clause may be satis-
15 fied by the defendant appearing by video
16 teleconference.

17 “(iv) COUNSEL.—A defendant who is
18 unable to obtain counsel is entitled to have
19 counsel appointed to represent the defend-
20 ant for proceedings under this section, in-
21 cluding any appeal, unless the defendant
22 waives the right to counsel.

23 “(v) FINDINGS.—The court shall state
24 in open court, and file in writing, the rea-

1 **SEC. 209. COMPASSIONATE RELEASE INITIATIVE.**

2 Section 231(g) of the Second Chance Act of 2007 (34
3 U.S.C. 60541(g)) is amended—

4 (1) in paragraph (1)—

5 (A) by inserting “and eligible terminally ill
6 offenders” after “elderly offenders” each place
7 that term appears; and

8 (B) in subparagraph (B), by inserting “,
9 upon written request from either the Bureau of
10 Prisons or an eligible elderly offender or eligible
11 terminally ill offender” after “to home deten-
12 tion”;

13 (2) in paragraph (2), by inserting “or eligible
14 terminally ill offender” after “elderly offender”;

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

17 (4) in paragraph (4)—

18 (A) by inserting “or eligible terminally ill
19 offender” after “each eligible elderly offender”;
20 and

21 (B) by inserting “and eligible terminally ill
22 offenders” after “eligible elderly offenders”;
23 and

24 (5) in paragraph (5)—

25 (A) in subparagraph (A)—

1 (i) in clause (i), by striking “65
2 years” and inserting “60 years”; and

3 (ii) in clause (ii)—

4 (I) by striking “the greater of 10
5 years or”; and

6 (II) by striking “75 percent” and
7 inserting “ $\frac{2}{3}$ ”; and

8 (B) by adding at the end the following:

9 “(D) ELIGIBLE TERMINALLY ILL OF-
10 FENDER.—The term ‘eligible terminally ill of-
11 fender’ means an offender in the custody of the
12 Bureau of Prisons who—

13 “(i) is serving a term of imprisonment
14 based on conviction for an offense or of-
15 fenses that do not include any crime of vio-
16 lence (as defined in section 16 of title 18,
17 United States Code), sex offense (as de-
18 fined in section 111(5) of the Sex Offender
19 Registration and Notification Act (34
20 U.S.C. 20911(5)), offense described in sec-
21 tion 2332b(g)(5)(B) of title 18, United
22 States Code, or offense under chapter 37
23 of title 18, United States Code;

1 “(ii) satisfies the criteria specified in
2 clauses (iii) through (vii) of subparagraph
3 (A); and

4 “(iii) has been determined by a med-
5 ical doctor approved by the Bureau of
6 Prisons to be—

7 “(I) in need of care at a nursing
8 home, intermediate care facility, or
9 assisted living facility, as those terms
10 are defined in section 232 of the Na-
11 tional Housing Act (12 U.S.C.
12 1715w); or

13 “(II) diagnosed with a terminal
14 illness.”.

15 **SEC. 210. JUVENILE SEALING AND EXPUNGEMENT.**

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

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

21 (2) prevent the unauthorized use or disclosure
22 of confidential juvenile delinquency records and any
23 potential employment, financial, psychological, or
24 other harm that would result from such unauthor-
25 ized use or disclosure.

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

3 **“§ 5031. Definitions**

4 “In this chapter—

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

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

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

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

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

22 “(6) the term ‘expungement petition’ means a
23 petition for expungement filed under section
24 5044(b);

1 “(7) the term ‘high-risk, public trust position’
2 means a position designated as a public trust posi-
3 tion under section 731.106(b) of title 5, Code of
4 Federal Regulations, or any successor regulation;

5 “(8) the term ‘juvenile’ means—

6 “(A) except as provided in subparagraph
7 (B), a person who has not attained the age of
8 18 years; and

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

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

18 “(10) the term ‘juvenile nonviolent offense’
19 means—

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

24 “(i) a criminal homicide, forcible rape
25 or any other sex offense (as defined in sec-

1 tion 111 of the Sex Offender Registration
2 and Notification Act (34 U.S.C. 20911)),
3 kidnapping, aggravated assault, robbery,
4 burglary of an occupied structure, arson,
5 or a drug trafficking crime in which a fire-
6 arm was used; or

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

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

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

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

16 “(11) the term ‘juvenile record’—

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

21 “(B) includes—

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

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

1 “(iii) a law enforcement record, in-
2 cluding a photograph or a State criminal
3 justice information system record; and

4 “(C) does not include—

5 “(i) fingerprints; or

6 “(ii) a DNA sample;

7 “(12) the term ‘petitioner’ means a person who
8 files an expungement petition or a sealing petition;

9 “(13) the term ‘seal’ means—

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

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

16 “(14) the term ‘sealing hearing’ means a hear-
17 ing held under section 5043(b)(2)(B); and

18 “(15) the term ‘sealing petition’ means a peti-
19 tion for a sealing order filed under section
20 5043(b).”.

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

23 (1) in subsection (a), in the flush text following
24 paragraph (6), by inserting after “bonding,” the fol-

1 lowing: “participation in an educational system,”;
2 and

3 (2) in subsection (b), by striking “District
4 courts exercising jurisdiction over any juvenile” and
5 inserting the following: “Not later than 7 days after
6 the date on which a district court exercises jurisdic-
7 tion over a juvenile, the district court”.

8 (d) SEALING; EXPUNGEMENT.—

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

12 **“§ 5043. Sealing**

13 “(a) AUTOMATIC SEALING OF NONVIOLENT OF-
14 FENSES.—

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

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

1 “(B) is not engaged in active criminal
2 court proceedings or juvenile delinquency pro-
3 ceedings.

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

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

13 “(b) PETITIONING FOR EARLY SEALING OF NON-
14 VIOLENT OFFENSES.—

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

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

1 “(i) has been convicted of a crime or
2 adjudicated delinquent for an act of juve-
3 nile delinquency since the date of the dis-
4 position; or

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

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

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

22 “(ii) on the date on which the indi-
23 vidual has completed every term of proba-
24 tion, official detention, or juvenile delin-

1 quent supervision ordered by the court
2 with respect to the offense.

3 “(2) PROCEDURES.—

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

9 “(i) to the Attorney General; and

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

13 “(I) the conduct of the petitioner
14 since the date of the offense; or

15 “(II) the reasons that the sealing
16 order should be entered.

17 “(B) HEARING.—

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

20 “(I) except as provided in clause
21 (iii), conduct a hearing in accordance
22 with clause (ii); and

23 “(II) determine whether to enter
24 a sealing order for the person in ac-
25 cordance with subparagraph (C).

1 “(ii) OPPORTUNITY TO TESTIFY AND
2 OFFER EVIDENCE.—

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

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

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

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

1 “(C) BASIS FOR DECISION.—The court
2 shall determine whether to grant the sealing pe-
3 tition after considering—

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

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

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

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

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

16 “(vi) the disposition of the case;

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

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

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

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

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

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

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

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

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

3 “(i) describes—

4 “(I) the number of sealing peti-
5 tions granted and denied under this
6 subsection; and

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

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

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

16 “(H) PUBLIC DEFENDER ELIGIBILITY.—

17 “(i) PETITIONERS UNDER AGE 18.—

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

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

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

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

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

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

23 “(c) EFFECT OF SEALING ORDER.—

24 “(1) PROTECTION FROM DISCLOSURE.—Except
25 as provided in paragraphs (3) and (4), if a court or-

1 ders the sealing of a juvenile record of a person
2 under subsection (a) or (b) with respect to a juvenile
3 nonviolent offense, the proceedings in the case shall
4 be deemed never to have occurred, and the person
5 may properly reply accordingly to any inquiry about
6 the events the records of which are ordered sealed.

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

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

15 “(i) law enforcement agency; and

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

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

21 “(i) seal the record; and

22 “(ii) submit a written certification to
23 the court, under penalty of perjury, that
24 the entity or person has sealed each paper
25 and electronic copy of the record;

1 “(C) seal each paper and electronic copy of
2 the record in the possession of the court; and

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

9 “(3) LAW ENFORCEMENT ACCESS TO SEALED
10 RECORDS.—

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

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

20 “(ii) for investigatory or prosecutorial
21 purposes; or

22 “(iii) for a background check that re-
23 lates to—

24 “(I) law enforcement employ-
25 ment; or

1 “(II) any position that a Federal
2 agency designates as a—

3 “(aa) national security posi-
4 tion; or

5 “(bb) high-risk, public trust
6 position.

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

14 “(4) PROHIBITION ON DISCLOSURE.—

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

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

24 “(C) EXCEPTIONS.—

1 “(i) BACKGROUND CHECKS.—In the
2 case of a background check for law en-
3 forcement employment or for any employ-
4 ment that requires a government security
5 clearance—

6 “(I) a person who is the subject
7 of a juvenile record sealed under this
8 section shall disclose the contents of
9 the record; and

10 “(II) a law enforcement agency
11 that possesses a juvenile record sealed
12 under this section—

13 “(aa) may disclose the con-
14 tents of the record; and

15 “(bb) if the agency obtains
16 or is subject to a court order au-
17 thorizing disclosure of the record,
18 may disclose the record.

19 “(ii) DISCLOSURE TO ARMED
20 FORCES.—A person, including a law en-
21 forcement agency that possesses a juvenile
22 record sealed under this section, may dis-
23 close information from a juvenile record
24 sealed under this section to the Secretaries
25 of the military departments (or the Sec-

1 retary of Homeland Security with respect
2 to the Coast Guard when it is not oper-
3 ating as a service in the Navy) for the pur-
4 pose of vetting an enlistment or commis-
5 sion, or with regard to any member of the
6 Armed Forces.

7 “(iii) CRIMINAL AND JUVENILE PRO-
8 CEEDINGS.—A prosecutor or other law en-
9 forcement officer may disclose information
10 from a juvenile record sealed under this
11 section, and a person who is the subject of
12 a juvenile record sealed under this section
13 may be required to testify or otherwise dis-
14 close information about the record, in a
15 criminal or other proceeding if such disclo-
16 sure is required by the Constitution of the
17 United States, the constitution of a State,
18 or a Federal or State statute or rule.

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

24 “(d) LIMITATION RELATING TO SUBSEQUENT INCI-
25 DENTS.—

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

10 “(2) AFTER PETITION GRANTED.—If, on or
11 after the date on which a court orders the sealing
12 of a juvenile record of a person under subsection (b),
13 the person is convicted of a crime or adjudicated de-
14 linquent for an act of juvenile delinquency—

15 “(A) the court shall—

16 “(i) vacate the order; and

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

21 and

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

23 “(e) INCLUSION OF STATE JUVENILE DELINQUENCY
24 ADJUDICATIONS AND PROCEEDINGS.—For purposes of
25 subparagraphs (A) and (B) of subsection (a)(1), clauses

1 (i) and (ii) of subsection (b)(1)(A), subsection
2 (b)(1)(C)(ix), and paragraphs (1) and (2) of subsection
3 (d), the term 'juvenile delinquency' includes the violation
4 of a law of a State committed by a person before attaining
5 the age of 18 years which would have been a crime if com-
6 mitted by an adult.

7 **“§ 5044. Expungement**

8 “(a) AUTOMATIC EXPUNGEMENT OF CERTAIN
9 RECORDS.—

10 “(1) ATTORNEY GENERAL MOTION.—

11 “(A) NONVIOLENT OFFENSES COMMITTED
12 BEFORE A PERSON TURNED 15.—If a person is
13 adjudicated delinquent under this chapter for a
14 juvenile nonviolent offense committed before the
15 person attained 15 years of age and completes
16 every term of probation, official detention, or
17 juvenile delinquent supervision ordered by the
18 court with respect to the offense before attain-
19 ing 18 years of age, on the date on which the
20 person attains 18 years of age, the Attorney
21 General shall file a motion in the district court
22 of the United States in which the person was
23 adjudicated delinquent requesting that each ju-
24 venile record of the person that relates to the
25 offense be expunged.

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

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

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

1 proceeding under this chapter, the court shall con-
2 currently order that each juvenile record relating to
3 the applicable proceeding be expunged.

4 “(3) AUTOMATIC NATURE OF EXPUNGEMENT.—
5 An order of expungement under paragraph (1)(C) or
6 (2) shall not require any action by the person whose
7 records are to be expunged.

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

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

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

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

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

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

7 “(2) PROCEDURES.—

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

13 “(i) to the Attorney General; and

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

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

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

21 “(B) HEARING.—

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

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

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

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

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

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

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

1 “(iii) WAIVER OF HEARING.—If the
2 petitioner and the Attorney General so
3 agree, the court shall make a determina-
4 tion under subparagraph (C) without a
5 hearing.

6 “(C) BASIS FOR DECISION.—The court
7 shall determine whether to grant an
8 expungement petition after considering—

9 “(i) the petition and any documents in
10 the possession of the court;

11 “(ii) all the evidence and testimony
12 presented at the expungement hearing, if
13 such a hearing is conducted;

14 “(iii) the best interests of the peti-
15 tioner;

16 “(iv) the age of the petitioner during
17 his or her contact with the court or any
18 law enforcement agency;

19 “(v) the nature of the juvenile non-
20 violent offense;

21 “(vi) the disposition of the case;

22 “(vii) the manner in which the peti-
23 tioner participated in any court-ordered re-
24 habilitative programming or supervised
25 services;

1 “(viii) the length of the time period
2 during which the petitioner has been with-
3 out contact with any court or any law en-
4 forcement agency;

5 “(ix) whether the petitioner has had
6 any criminal or juvenile delinquency in-
7 volvement since the disposition of the juve-
8 nile delinquency proceeding; and

9 “(x) the adverse consequences the pe-
10 titioner may suffer if the petition is not
11 granted.

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

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

23 “(F) NO FEE FOR INDIGENT PETI-
24 TIONERS.—If the court determines that the pe-

1 petitioner is indigent, there shall be no cost for
2 filing an expungement petition.

3 “(G) REPORTING.—Not later than 2 years
4 after the date of enactment of this section, and
5 each year thereafter, the Director of the Admin-
6 istrative Office of the United States Courts
7 shall issue a public report that—

8 “(i) describes—

9 “(I) the number of expungement
10 petitions granted and denied under
11 this subsection; and

12 “(II) the number of instances in
13 which the Attorney General supported
14 or opposed an expungement petition;

15 “(ii) includes any supporting data
16 that the Director determines relevant and
17 that does not name any petitioner; and

18 “(iii) disaggregates all relevant data
19 by race, ethnicity, gender, and the nature
20 of the offense.

21 “(H) PUBLIC DEFENDER ELIGIBILITY.—

22 “(i) PETITIONERS UNDER AGE 18.—
23 The district court shall appoint counsel in
24 accordance with the plan of the district
25 court in operation under section 3006A to

1 represent a petitioner for purposes of this
2 subsection if the petitioner is less than 18
3 years of age.

4 “(ii) PETITIONERS AGE 18 AND
5 OLDER.—

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

14 “(II) CONSIDERATIONS.—In de-
15 termining whether to appoint counsel
16 under subclause (I), the court shall
17 consider—

18 “(aa) the anticipated com-
19 plexity of the expungement hear-
20 ing, including the number and
21 type of witnesses called to advo-
22 cate against the expungement of
23 the records of the petitioner; and

24 “(bb) the potential for ad-
25 verse testimony by a victim or a

1 representative of the Attorney
2 General.

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

4 “(1) PROTECTION FROM DISCLOSURE.—Except
5 as provided in paragraphs (4) through (8), if a court
6 orders the expungement of a juvenile record of a
7 person under subsection (a) or (b) with respect to a
8 juvenile nonviolent offense, the proceedings in the
9 case shall be deemed never to have occurred, and the
10 person may properly reply accordingly to any inquiry
11 about the events the records of which are ordered
12 expunged.

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

17 “(A) send a copy of the expungement order
18 to each entity or person known to the court
19 that possesses a record relating to the offense,
20 including each—

21 “(i) law enforcement agency; and

22 “(ii) public or private correctional or
23 detention facility;

24 “(B) in the expungement order—

1 “(i) require each entity or person de-
2 scribed in subparagraph (A) to—

3 “(I) seal the record for 1 year
4 and, during that 1-year period, apply
5 paragraphs (3) and (4) of section
6 5043(e) with respect to the record;

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

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

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

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

1 “(D) after receiving a written certification
2 from each entity or person under subparagraph
3 (B)(i)(III), notify the petitioner that each entity
4 or person described in subparagraph (A) has
5 destroyed each paper and electronic copy of the
6 record.

7 “(3) REPLY TO INQUIRIES.—On and after the
8 date that is 1 year after the date on which a court
9 orders the expungement of a juvenile record of a
10 person under this section, in the case of an inquiry
11 relating to the juvenile record, the court, each law
12 enforcement officer, any agency that provided treat-
13 ment or rehabilitation services to the person, and the
14 person (except as provided in paragraphs (4)
15 through (8)) shall reply to the inquiry that no such
16 juvenile record exists.

17 “(4) CIVIL ACTIONS.—

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

1 enforcement agency is an agency, in which the
2 contents of the record are relevant to the reso-
3 lution of the issues presented in the action,
4 there shall be a rebuttable presumption that the
5 defendant has a complete defense to the action.

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

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

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

24 “(5) CRIMINAL AND JUVENILE PRO-
25 CEEDINGS.—On and after the date that is 1 year

1 after the date on which a court orders the
2 expungement of a juvenile record under this section,
3 a prosecutor or other law enforcement officer may
4 disclose underlying information from the juvenile
5 record, and the person who is the subject of the ju-
6 venile record may be required to testify or otherwise
7 disclose information about the record, in a criminal
8 or other proceeding if such disclosure is required by
9 the Constitution of the United States, the constitu-
10 tion of a State, or a Federal or State statute or rule.

11 “(6) BACKGROUND CHECKS.—On and after the
12 date that is 1 year after the date on which a court
13 orders the expungement of a juvenile record under
14 this section, in the case of a background check for
15 law enforcement employment or for any employment
16 that requires a government security clearance, the
17 person who is the subject of the juvenile record may
18 be required to disclose underlying information from
19 the record.

20 “(7) DISCLOSURE TO ARMED FORCES.—On and
21 after the date that is 1 year after the date on which
22 a court orders the expungement of a juvenile record
23 under this section, a person, including a law enforce-
24 ment agency that possessed such a juvenile record,
25 may be required to disclose underlying information

1 from the record to the Secretaries of the military de-
2 partments (or the Secretary of Homeland Security
3 with respect to the Coast Guard when it is not oper-
4 ating as a service in the Navy) for the purpose of
5 vetting an enlistment or commission, or with regard
6 to any member of the Armed Forces.

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

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

18 “(d) LIMITATION RELATING TO SUBSEQUENT INCI-
19 DENTS.—

20 “(1) AFTER FILING AND BEFORE PETITION
21 GRANTED.—If, after the date on which a person files
22 an expungement petition with respect to a juvenile
23 offense and before the court determines whether to
24 grant the petition, the person is convicted of a
25 crime, adjudicated delinquent for an act of juvenile

1 delinquency, or engaged in active criminal court pro-
2 ceedings or juvenile delinquency proceedings, the
3 court shall deny the petition.

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

11 “(A) the court that ordered the
12 expungement shall—

13 “(i) vacate the order; and

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

19 “(B) the record—

20 “(i) shall not be expunged; or

21 “(ii) if the record has been expunged
22 because 1 year has elapsed since the date
23 of the expungement order, shall not be
24 treated as having been expunged.

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

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

“5043. Sealing.

“5044. Expungement.”.

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

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

1 **SEC. 211. JUVENILE SOLITARY CONFINEMENT.**

2 (a) IN GENERAL.—Chapter 403 of title 18, United
3 States Code, as amended by section 210, is amended by
4 adding at the end the following:

5 **“§ 5045. Juvenile solitary confinement**

6 “(a) DEFINITIONS.—In this section—

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

8 “(A) a juvenile who—

9 “(i) is being proceeded against under
10 this chapter for an alleged act of juvenile
11 delinquency; or

12 “(ii) has been adjudicated delinquent
13 under this chapter; or

14 “(B) a juvenile who is being proceeded
15 against as an adult in a district court of the
16 United States for an alleged criminal offense;

17 “(2) the term ‘juvenile facility’ means any facil-
18 ity where covered juveniles are—

19 “(A) committed pursuant to an adjudica-
20 tion of delinquency under this chapter; or

21 “(B) detained prior to disposition or con-
22 viction; and

23 “(3) the term ‘room confinement’ means the in-
24 voluntary placement of a covered juvenile alone in a
25 cell, room, or other area for any reason.

1 “(b) PROHIBITION ON ROOM CONFINEMENT IN JU-
2 VENILE FACILITIES.—

3 “(1) IN GENERAL.—The use of room confine-
4 ment at a juvenile facility for discipline, punishment,
5 retaliation, or any reason other than as a temporary
6 response to a covered juvenile’s behavior that poses
7 a serious and immediate risk of physical harm to
8 any individual, including the covered juvenile, is pro-
9 hibited.

10 “(2) JUVENILES POSING RISK OF HARM.—

11 “(A) REQUIREMENT TO USE LEAST RE-
12 STRICTIVE TECHNIQUES.—

13 “(i) IN GENERAL.—Before a staff
14 member of a juvenile facility places a cov-
15 ered juvenile in room confinement, the
16 staff member shall attempt to use less re-
17 strictive techniques, including—

18 “(I) talking with the covered ju-
19 venile in an attempt to de-escalate the
20 situation; and

21 “(II) permitting a qualified men-
22 tal health professional to talk to the
23 covered juvenile.

24 “(ii) EXPLANATION.—If, after at-
25 tempting to use less restrictive techniques

1 as required under clause (i), a staff mem-
2 ber of a juvenile facility decides to place a
3 covered juvenile in room confinement, the
4 staff member shall first—

5 “(I) explain to the covered juve-
6 nile the reasons for the room confine-
7 ment; and

8 “(II) inform the covered juvenile
9 that release from room confinement
10 will occur—

11 “(aa) immediately when the
12 covered juvenile regains self-con-
13 trol, as described in subpara-
14 graph (B)(i); or

15 “(bb) not later than after
16 the expiration of the time period
17 described in subclause (I) or (II)
18 of subparagraph (B)(ii), as appli-
19 cable.

20 “(B) MAXIMUM PERIOD OF CONFINEMENT.—If a covered juvenile is placed in room
21 confinement because the covered juvenile poses
22 a serious and immediate risk of physical harm
23 to himself or herself, or to others, the covered
24 juvenile shall be released—
25

1 “(i) immediately when the covered ju-
2 venile has sufficiently gained control so as
3 to no longer engage in behavior that
4 threatens serious and immediate risk of
5 physical harm to himself or herself, or to
6 others; or

7 “(ii) if a covered juvenile does not suf-
8 ficiently gain control as described in clause
9 (i), not later than—

10 “(I) 3 hours after being placed in
11 room confinement, in the case of a
12 covered juvenile who poses a serious
13 and immediate risk of physical harm
14 to others; or

15 “(II) 30 minutes after being
16 placed in room confinement, in the
17 case of a covered juvenile who poses a
18 serious and immediate risk of physical
19 harm only to himself or herself.

20 “(C) RISK OF HARM AFTER MAXIMUM PE-
21 RIOD OF CONFINEMENT.—If, after the applica-
22 ble maximum period of confinement under sub-
23 clause (I) or (II) of subparagraph (B)(ii) has
24 expired, a covered juvenile continues to pose a

1 serious and immediate risk of physical harm de-
2 scribed in that subclause—

3 “(i) the covered juvenile shall be
4 transferred to another juvenile facility or
5 internal location where services can be pro-
6 vided to the covered juvenile without rely-
7 ing on room confinement; or

8 “(ii) if a qualified mental health pro-
9 fessional believes the level of crisis service
10 needed is not currently available, a staff
11 member of the juvenile facility shall ini-
12 tiate a referral to a location that can meet
13 the needs of the covered juvenile.

14 “(D) SPIRIT AND PURPOSE.—The use of
15 consecutive periods of room confinement to
16 evade the spirit and purpose of this subsection
17 shall be prohibited.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The table of sections for chapter 403 of title 18, United
20 States Code, as amended by section 210, is amended by
21 adding at the end the following:

“5045. Juvenile solitary confinement.”.

1 **SEC. 212. ENSURING ACCURACY OF FEDERAL CRIMINAL**
2 **RECORDS.**

3 (a) **IN GENERAL.**—Section 534 of title 28, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“(g) ENSURING ACCURACY OF FEDERAL CRIMINAL**
7 **RECORDS.—**

8 **“(1) DEFINITIONS.—**

9 **“(A) IN GENERAL.**—In this subsection—

10 “(i) the term ‘applicant’ means the in-
11 dividual to whom a record sought to be ex-
12 changed pertains;

13 “(ii) the term ‘high-risk, public trust
14 position’ means a position designated as a
15 public trust position under section
16 731.106(b) of title 5, Code of Federal Reg-
17 ulations, or any successor regulation;

18 “(iii) the term ‘incomplete’, with re-
19 spect to a record, means the record—

20 “(I) indicates that an individual
21 was arrested but does not describe the
22 offense for which the individual was
23 arrested; or

24 “(II) indicates that an individual
25 was arrested or criminal proceedings
26 were instituted against an individual

1 but does not include the final dispo-
2 tion of the arrest or of the pro-
3 ceedings if a final disposition has been
4 reached;

5 “(iv) the term ‘record’ means a record
6 or other information collected under this
7 section that relates to—

8 “(I) an arrest by a Federal law
9 enforcement officer; or

10 “(II) a Federal criminal pro-
11 ceeding;

12 “(v) the term ‘reporting jurisdiction’
13 means any person or entity that provides a
14 record to the Attorney General under this
15 section; and

16 “(vi) the term ‘requesting entity’—

17 “(I) means a person or entity
18 that seeks the exchange of a record
19 for civil purposes that include employ-
20 ment, housing, credit, or any other
21 type of application; and

22 “(II) does not include a law en-
23 forcement or intelligence agency that
24 seeks the exchange of a record for—

1 “(aa) investigative purposes;
2 or
3 “(bb) purposes relating to
4 law enforcement employment.

5 “(B) RULE OF CONSTRUCTION.—The defi-
6 nition of the term ‘requesting entity’ under sub-
7 paragraph (A) shall not be construed to author-
8 ize access to records that is not otherwise au-
9 thorized by law.

10 “(2) INCOMPLETE OR INACCURATE RECORDS.—
11 The Attorney General shall establish and enforce
12 procedures to ensure the prompt release of accurate
13 records exchanged for employment-related purposes
14 through the records system created under this sec-
15 tion.

16 “(3) REQUIRED PROCEDURES.—The procedures
17 established under paragraph (2) shall include the
18 following:

19 “(A) INACCURATE RECORD OR INFORMA-
20 TION.—If the Attorney General determines that
21 a record is inaccurate, the Attorney General
22 shall promptly correct the record, including by
23 making deletions to the record if appropriate.

24 “(B) INCOMPLETE RECORD.—

1 “(i) IN GENERAL.—If the Attorney
2 General determines that a record is incom-
3 plete or cannot be verified, the Attorney
4 General—

5 “(I) shall attempt to complete or
6 verify the record; and

7 “(II) if unable to complete or
8 verify the record, may promptly make
9 any changes or deletions to the
10 record.

11 “(ii) LACK OF DISPOSITION OF AR-
12 REST.—For purposes of this subpara-
13 graph, an incomplete record includes a
14 record that indicates there was an arrest
15 and does not include the disposition of the
16 arrest.

17 “(iii) OBTAINING DISPOSITION OF AR-
18 REST.—If the Attorney General determines
19 that a record is an incomplete record de-
20 scribed in clause (ii), the Attorney General
21 shall, not later than 10 days after the date
22 on which the requesting entity requests the
23 exchange and before the exchange is made,
24 obtain the disposition (if any) of the ar-
25 rest.

1 “(v) provide to the applicant the spe-
2 cific findings and results of that investiga-
3 tion;

4 “(vi) promptly make any changes or
5 deletions to the records required as a re-
6 sult of the challenge; and

7 “(vii) report those changes to the re-
8 questing entity.

9 “(E) CERTAIN EXCHANGES PROHIBITED.—

10 “(i) IN GENERAL.—An exchange shall
11 not include any record—

12 “(I) except as provided in clause
13 (ii), about an arrest more than 2
14 years old as of the date of the request
15 for the exchange, that does not also
16 include a disposition (if any) of that
17 arrest;

18 “(II) relating to an adult or juve-
19 nile nonserious offense of the sort de-
20 scribed in section 20.32(b) of title 28,
21 Code of Federal Regulations, as in ef-
22 fect on July 1, 2009; or

23 “(III) to the extent the record is
24 not clearly an arrest or a disposition
25 of an arrest.

1 “(ii) APPLICANTS FOR SENSITIVE PO-
2 SITIONS.—The prohibition under clause
3 (i)(I) shall not apply in the case of a back-
4 ground check that relates to—

5 “(I) law enforcement employ-
6 ment; or

7 “(II) any position that a Federal
8 agency designates as a—

9 “(aa) national security posi-
10 tion; or

11 “(bb) high-risk, public trust
12 position.

13 “(4) FEES.—The Attorney General may collect
14 a reasonable fee for an exchange of records for em-
15 ployment-related purposes through the records sys-
16 tem created under this section to defray the costs
17 associated with exchanges for those purposes, includ-
18 ing any costs associated with the investigation of in-
19 accurate or incomplete records.”

20 (b) REGULATIONS ON REASONABLE PROCEDURES.—
21 Not later than 1 year after the date of enactment of this
22 Act, the Attorney General shall issue regulations to carry
23 out section 534(g) of title 28, United States Code, as
24 added by subsection (a).

25 (c) REPORT.—

1 (1) DEFINITION.—In this subsection, the term
2 “record” has the meaning given the term in sub-
3 section (g) of section 534 of title 28, United States
4 Code, as added by subsection (a).

5 (2) REPORT REQUIRED.—Not later than 2
6 years after the date of enactment of this Act, the
7 Attorney General shall submit to Congress a report
8 on the implementation of subsection (g) of section
9 534 of title 28, United States Code, as added by
10 subsection (a), that includes—

11 (A) the number of exchanges of records for
12 employment-related purposes made with entities
13 in each State through the records system cre-
14 ated under such section 534;

15 (B) any prolonged failure of a Federal
16 agency to comply with a request by the Attor-
17 ney General for information about dispositions
18 of arrests; and

19 (C) the numbers of successful and unsuc-
20 cessful challenges to the accuracy and complete-
21 ness of records, organized by the Federal agen-
22 cy from which each record originated.

1 **TITLE III—NATIONAL CRIMINAL**
2 **JUSTICE COMMISSION ACT**

3 **SEC. 301. SHORT TITLE.**

4 This Act may be cited as the “National Criminal Jus-
5 tice Commission Act of 2017”.

6 **SEC. 302. FINDINGS.**

7 Congress finds that—

8 (1) it is in the interest of the Nation to estab-
9 lish a commission to undertake a comprehensive re-
10 view of the criminal justice system;

11 (2) there has not been a comprehensive study
12 since the President’s Commission on Law Enforce-
13 ment and Administration of Justice was established
14 in 1965;

15 (3) that commission, in a span of 18 months,
16 produced a comprehensive report entitled “The
17 Challenge of Crime in a Free Society,” which con-
18 tained 200 specific recommendations on all aspects
19 of the criminal justice system involving Federal,
20 State, tribal, and local governments, civic organiza-
21 tions, religious institutions, business groups, and in-
22 dividual citizens; and

23 (4) developments over the intervening 50 years
24 require once again that Federal, State, tribal, and
25 local governments, civic organizations, religious in-

1 stitutions, business groups, and individual citizens
2 come together to review evidence and consider how
3 to improve the criminal justice system.

4 **SEC. 303. ESTABLISHMENT OF COMMISSION.**

5 There is established a commission to be known as the
6 “National Criminal Justice Commission” (referred to in
7 this title as the “Commission”).

8 **SEC. 304. PURPOSE OF THE COMMISSION.**

9 The Commission shall—

10 (1) undertake a comprehensive review of the
11 criminal justice system;

12 (2) make recommendations for Federal criminal
13 justice reform to the President and Congress; and

14 (3) disseminate findings and supplemental guid-
15 ance to the Federal Government, as well as to State,
16 local, and tribal governments.

17 **SEC. 305. REVIEW, RECOMMENDATIONS, AND REPORT.**

18 (a) GENERAL REVIEW.—The Commission shall un-
19 dertake a comprehensive review of all areas of the criminal
20 justice system, including Federal, State, local, and tribal
21 governments’ criminal justice costs, practices, and policies.

22 (b) RECOMMENDATIONS.—

23 (1) IN GENERAL.—Not later than 18 months
24 after the first meeting of the Commission, the Com-
25 mission shall submit to the President and Congress

1 recommendations for changes in Federal oversight,
2 policies, practices, and laws designed to prevent,
3 deter, and reduce crime and violence, reduce recidi-
4 vism, improve cost-effectiveness, and ensure the in-
5 terests of justice at every step of the criminal justice
6 system.

7 (2) UNANIMOUS CONSENT REQUIRED.—A rec-
8 ommendation of the Commission may be adopted
9 and submitted under paragraph (1) if the rec-
10 ommendation is approved by a unanimous vote of
11 the Commissioners at a meeting where a quorum is
12 present pursuant to section 306(d).

13 (3) REQUIREMENT.—The recommendations
14 submitted under this subsection shall be made avail-
15 able to the public.

16 (c) REPORT.—

17 (1) IN GENERAL.—Not later than 18 months
18 after the first meeting of the Commission, the Com-
19 mission shall also disseminate to the Federal govern-
20 ment, as well as to State, local, and tribal govern-
21 ments, a report that details the findings and supple-
22 mental guidance of the Commission regarding the
23 criminal justice system at all levels of government.

24 (2) MAJORITY VOTE REQUIRED.—Commission
25 findings and supplemental guidance may be adopted

1 and included in the report required under paragraph
2 (1) if the findings or guidance is approved by a ma-
3 jority vote of the Commissioners at a meeting where
4 a quorum is present pursuant to section 306(d), ex-
5 cept that any Commissioners dissenting from par-
6 ticular finding or supplemental guidance shall have
7 the right to state the reason for their dissent in
8 writing and such dissent shall be included in the re-
9 port of the Commission.

10 (3) REQUIREMENT.—The report submitted
11 under this subsection shall be made available to the
12 public.

13 (d) PRIOR COMMISSIONS.—The Commission shall
14 take into consideration the work of prior relevant commis-
15 sions in conducting its review.

16 (e) STATE AND LOCAL GOVERNMENT.—In issuing its
17 recommendations and report under this section, the Com-
18 mission shall not infringe on the legitimate rights of the
19 States to determine their own criminal laws or the enforce-
20 ment of such laws.

21 (f) PUBLIC HEARINGS.—The Commission shall con-
22 duct public hearings in various locations around the
23 United States.

24 (g) CONSULTATION WITH GOVERNMENT AND NON-
25 GOVERNMENT REPRESENTATIVES.—

1 (1) IN GENERAL.—The Commission shall—

2 (A) closely consult with Federal, State,
3 local, and tribal government and nongovern-
4 mental leaders, including State, local, and tribal
5 law enforcement officials, legislators, public
6 health officials, judges, court administrators,
7 prosecutors, defense counsel, victims' rights or-
8 ganizations, probation and parole officials,
9 criminal justice planners, criminologists, civil
10 rights and liberties organizations, formerly in-
11 carcerated individuals, professional organiza-
12 tions, and corrections officials; and

13 (B) include in the final report required
14 under subsection (c) summaries of the input
15 and recommendations of these leaders.

16 (2) UNITED STATES SENTENCING COMMIS-
17 SION.—To the extent the review and recommenda-
18 tions required by this section relate to sentencing
19 policies and practices for the Federal criminal jus-
20 tice system, the Commission shall conduct such re-
21 view and make such recommendations in consulta-
22 tion with the United States Sentencing Commission.

23 (h) SENSE OF CONGRESS, GOAL OF UNANIMITY.—
24 It is the sense of the Congress that, given the national
25 importance of the matters before the Commission, the

1 Commission should work toward unanimously supported
2 findings and supplemental guidance, and that unani-
3 mously supported findings and supplemental guidance
4 should take precedence over those findings and supple-
5 mental guidance that are not unanimously supported.

6 **SEC. 306. MEMBERSHIP.**

7 (a) IN GENERAL.—The Commission shall be com-
8 posed of 14 members, as follows:

9 (1) One member shall be appointed by the
10 President, who shall serve as co-chairman of the
11 Commission.

12 (2) One member shall be appointed by the lead-
13 er of the Senate, in consultation with the leader of
14 the House of Representatives, that is a member of
15 the opposite party of the President, who shall serve
16 as co-chairman of the Commission.

17 (3) Two members shall be appointed by the sen-
18 ior member of the Senate leadership of the Demo-
19 cratic Party, in consultation with the Democratic
20 leadership of the Committee on the Judiciary.

21 (4) Two members shall be appointed by the sen-
22 ior member of the Senate leadership of the Repub-
23 lican Party, in consultation with the Republican
24 leadership of the Committee on the Judiciary.

1 (5) Two members shall be appointed by the sen-
2 ior member of the leadership of the House of Rep-
3 resentatives of the Republican Party, in consultation
4 with the Republican leadership of the Committee on
5 the Judiciary.

6 (6) Two members shall be appointed by the sen-
7 ior member of the leadership of the House of Rep-
8 representatives of the Democratic Party, in consultation
9 with the Democratic leadership of the Committee on
10 the Judiciary.

11 (7) Two members, who shall be State and local
12 representatives, shall be appointed by the President
13 in agreement with leader of the Senate (majority or
14 minority leader, as the case may be) of the Repub-
15 lican Party and the leader of the House of Rep-
16 resentatives (majority or minority leader, as the case
17 may be) of the Republican Party.

18 (8) Two members, who shall be State and local
19 representatives, shall be appointed by the President
20 in agreement with leader of the Senate (majority or
21 minority leader, as the case may be) of the Demo-
22 cratic Party and the leader of the House of Rep-
23 resentatives (majority or minority leader, as the case
24 may be) of the Democratic Party.

25 (b) MEMBERSHIP.—

1 (1) QUALIFICATIONS.—The individuals ap-
2 pointed from private life as members of the Commis-
3 sion shall be individuals with distinguished reputa-
4 tions for integrity and nonpartisanship who are na-
5 tionally recognized for expertise, knowledge, or expe-
6 rience in such relevant areas as—

7 (A) law enforcement;

8 (B) criminal justice;

9 (C) national security;

10 (D) prison and jail administration;

11 (E) prisoner reentry;

12 (F) public health, including physical and
13 sexual victimization, drug addiction and mental
14 health;

15 (G) victims' rights;

16 (H) civil liberties;

17 (I) court administration;

18 (J) social services; and

19 (K) State, local, and tribal government.

20 (2) DISQUALIFICATION.—An individual shall
21 not be appointed as a member of the Commission if
22 such individual possesses any personal financial in-
23 terest in the discharge of any of the duties of the
24 Commission.

1 (3) TERMS.—Members shall be appointed for
2 the life of the Commission.

3 (c) APPOINTMENT; FIRST MEETING.—

4 (1) APPOINTMENT.—Members of the Commis-
5 sion shall be appointed not later than 45 days after
6 the date of the enactment of this Act.

7 (2) FIRST MEETING.—The Commission shall
8 hold its first meeting on the date that is 60 days
9 after the date of enactment of this Act, or not later
10 than 30 days after the date on which funds are
11 made available for the Commission, whichever is
12 later.

13 (3) ETHICS.—At the first meeting of the Com-
14 mission, the Commission shall draft appropriate eth-
15 ics guidelines for commissioners and staff, including
16 guidelines relating to conflict of interest and finan-
17 cial disclosure. The Commission shall consult with
18 the Senate and House Committees on the Judiciary
19 as a part of drafting the guidelines and furnish the
20 Committees with a copy of the completed guidelines.

21 (d) MEETINGS; QUORUM; VACANCIES.—

22 (1) MEETINGS.—The Commission shall meet at
23 the call of the co-chairs or a majority of its mem-
24 bers.

1 (2) QUORUM.—Eight members of the Commis-
2 sion shall constitute a quorum for purposes of con-
3 ducting business, except that 2 members of the
4 Commission shall constitute a quorum for purposes
5 of receiving testimony.

6 (3) VACANCIES.—Any vacancy in the Commis-
7 sion shall not affect its powers, but shall be filled in
8 the same manner in which the original appointment
9 was made. If vacancies in the Commission occur on
10 any day after 45 days after the date of the enact-
11 ment of this Act, a quorum shall consist of a major-
12 ity of the members of the Commission as of such
13 day, so long as not less than 1 Commission member
14 chosen by a member of each party, Republican and
15 Democratic, is present.

16 (e) ACTIONS OF COMMISSION.—

17 (1) IN GENERAL.—The Commission—

18 (A) shall, subject to the requirements of
19 section 305, act by resolution agreed to by a
20 majority of the members of the Commission
21 voting and present; and

22 (B) may establish panels composed of less
23 than the full membership of the Commission for
24 purposes of carrying out the duties of the Com-
25 mission under this title—

1 (i) which shall be subject to the review
2 and control of the Commission; and

3 (ii) any findings and determinations
4 made by such a panel shall not be consid-
5 ered the findings and determinations of the
6 Commission unless approved by the Com-
7 mission.

8 (2) DELEGATION.—Any member, agent, or staff
9 of the Commission may, if authorized by the co-
10 chairs of the Commission, take any action which the
11 Commission is authorized to take pursuant to this
12 Act.

13 **SEC. 307. ADMINISTRATION.**

14 (a) STAFF.—

15 (1) EXECUTIVE DIRECTOR.—The Commission
16 shall have a staff headed by an Executive Director.
17 The Executive Director shall be paid at a rate estab-
18 lished for the Certified Plan pay level for the Senior
19 Executive Service under section 5382 of title 5,
20 United States Code.

21 (2) APPOINTMENT AND COMPENSATION.—The
22 co-chairs of the Commission shall designate and fix
23 the compensation of the Executive Director and, in
24 accordance with rules agreed upon by the Commis-
25 sion, may appoint and fix the compensation of such

1 other personnel as may be necessary to enable the
2 Commission to carry out its functions, without re-
3 gard to the provisions of title 5, United States Code,
4 governing appointments in the competitive service,
5 and without regard to the provisions of chapter 51
6 and subchapter III of chapter 53 of such title relat-
7 ing to classification and General Schedule pay rates,
8 except that no rate of pay fixed under this sub-
9 section may exceed the equivalent of that payable for
10 a position at level V of the Executive Schedule under
11 section 5316 of title 5, United States Code.

12 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

13 (A) IN GENERAL.—The executive director
14 and any personnel of the Commission who are
15 employees shall be employees under section
16 2105 of title 5, United States Code, for pur-
17 poses of chapters 63, 81, 83, 84, 85, 87, 89,
18 and 90 of that title.

19 (B) MEMBERS OF COMMISSION.—Subpara-
20 graph (A) shall not be construed to apply to
21 members of the Commission.

22 (4) THE COMPENSATION OF COMMISSIONERS.—

23 Each member of the Commission may be com-
24 pensated at not to exceed the daily equivalent of the
25 annual rate of basic pay in effect for a position at

1 level V of the Executive Schedule under section 5315
2 of title 5, United States Code, for each day during
3 which that member is engaged in the actual per-
4 formance of the duties of the Commission. All mem-
5 bers of the Commission who are officers or employ-
6 ees of the United States, State, or local government
7 shall serve without compensation in addition to that
8 received for their services as officers or employees.

9 (5) TRAVEL EXPENSES.—While away from
10 their homes or regular places of business in the per-
11 formance of services for the Commission, members
12 of the Commission shall be allowed travel expenses,
13 including per diem in lieu of subsistence, in the
14 same manner as persons employed intermittently in
15 the Government service are allowed expenses under
16 section 5703(b) of title 5, United States Code.

17 (b) EXPERTS AND CONSULTANTS.—With the ap-
18 proval of the Commission, the Executive Director may
19 procure temporary and intermittent services under section
20 3109(b) of title 5, United States Code.

21 (c) DETAIL OF GOVERNMENT EMPLOYEES.—Upon
22 the request of the Commission, the head of any Federal
23 agency may detail, without reimbursement, any of the per-
24 sonnel of such agency to the Commission to assist in car-
25 rying out the duties of the Commission. Any such detail

1 shall not interrupt or otherwise affect the civil service sta-
2 tus or privileges of the Federal employee.

3 (d) OTHER RESOURCES.—The Commission shall
4 have reasonable access to materials, resources, statistical
5 data, and other information such Commission determines
6 to be necessary to carry out its duties from the Library
7 of Congress, the Department of Justice, the Office of Na-
8 tional Drug Control Policy, the Department of State, and
9 other agencies of the executive and legislative branches of
10 the Federal Government. The co-chairs of the Commission
11 shall make requests for such access in writing when nec-
12 essary.

13 (e) VOLUNTEER SERVICES.—Notwithstanding the
14 provisions of section 1342 of title 31, United States Code,
15 the Commission is authorized to accept and utilize the
16 services of volunteers serving without compensation. The
17 Commission may reimburse such volunteers for local travel
18 and office supplies, and for other travel expenses, includ-
19 ing per diem in lieu of subsistence, as authorized by sec-
20 tion 5703 of title 5, United States Code. A person pro-
21 viding volunteer services to the Commission shall be con-
22 sidered an employee of the Federal Government in per-
23 formance of those services for the purposes of chapter 81
24 of title 5, United States Code, relating to compensation
25 for work-related injuries, chapter 171 of title 28, United

1 States Code, relating to tort claims, and chapter 11 of
2 title 18, United States Code, relating to conflicts of inter-
3 est.

4 (f) OBTAINING OFFICIAL DATA.—The Commission
5 may secure directly from any agency of the United States
6 information necessary to enable it to carry out this Act.
7 Upon the request of the co-chairs of the Commission, the
8 head of that department or agency shall furnish that infor-
9 mation to the Commission. The Commission shall not have
10 access to sensitive information regarding ongoing inves-
11 tigations.

12 (g) MAILS.—The Commission may use the United
13 States mails in the same manner and under the same con-
14 ditions as other departments and agencies of the United
15 States.

16 (h) ADMINISTRATIVE REPORTING.—The Commission
17 shall issue biannual status reports to Congress regarding
18 the use of resources, salaries, and all expenditures of ap-
19 propriated funds.

20 (i) CONTRACTS.—The Commission is authorized to
21 enter into contracts with Federal and State agencies, pri-
22 vate firms, institutions, and individuals for the conduct of
23 activities necessary to the discharge of its duties and re-
24 sponsibilities. A contract, lease or other legal agreement

1 entered into by the Commission may not extend beyond
2 the date of the termination of the Commission.

3 (j) GIFTS.—Subject to existing law, the Commission
4 may accept, use, and dispose of gifts or donations of serv-
5 ices or property.

6 (k) ADMINISTRATIVE ASSISTANCE.—The Adminis-
7 trator of General Services shall provide to the Commis-
8 sion, on a reimbursable basis, the administrative support
9 services necessary for the Commission to carry out its re-
10 sponsibilities under this Act. These administrative services
11 may include human resource management, budget, leas-
12 ing, accounting, and payroll services.

13 (l) NONAPPLICABILITY OF FACIA AND PUBLIC AC-
14 CESS TO MEETINGS AND MINUTES.—

15 (1) IN GENERAL.—The Federal Advisory Com-
16 mittee Act (5 U.S.C. App.) shall not apply to the
17 Commission.

18 (2) MEETINGS AND MINUTES.—

19 (A) MEETINGS.—

20 (i) ADMINISTRATION.—All meetings of
21 the Commission shall be open to the pub-
22 lic, except that a meeting or any portion of
23 it may be closed to the public if it concerns
24 matters or information described in section
25 552b(c) of title 5, United States Code. In-

1 terested persons shall be permitted to ap-
2 pear at open meetings and present oral or
3 written statements on the subject matter
4 of the meeting. The Commission may ad-
5 minister oaths or affirmations to any per-
6 son appearing before it.

7 (ii) NOTICE.—All open meetings of
8 the Commission shall be preceded by time-
9 ly public notice in the Federal Register of
10 the time, place, and subject of the meeting.

11 (B) MINUTES AND PUBLIC AVAIL-
12 ABILITY.—Minutes of each open meeting shall
13 be kept and shall contain a record of the people
14 present, a description of the discussion that oc-
15 curred, and copies of all statements filed. The
16 minutes and records of all open meetings and
17 other documents that were made available to or
18 prepared for the Commission shall be available
19 for public inspection and copying at a single lo-
20 cation in the offices of the Commission.

21 (m) ARCHIVING.—Not later than the date of termi-
22 nation of the Commission, all records and papers of the
23 Commission shall be delivered to the Archivist of the
24 United States for deposit in the National Archives.

1 **SEC. 308. FUNDING.**

2 (a) DETERMINATION OF SAVINGS.—Not later than
3 90 days after the date of enactment of this Act, the Direc-
4 tor of the Office of Management and Budget shall deter-
5 mine the total amount of savings projected to be realized
6 by the implementation of title I during the 10-fiscal-year
7 period beginning on the first day of the first fiscal year
8 beginning after the date of enactment of this Act.

9 (b) TRANSFERS INTO FUND.—

10 (1) ESTABLISHMENT OF FUND.—There is es-
11 tablished in the Treasury a fund to be known as the
12 National Criminal Justice Commission Fund (re-
13 ferred to in this section as the “Fund”).

14 (2) TRANSFERS.—Effective on the date on
15 which the Director of the Office of Management and
16 Budget determines the amount of savings under sub-
17 section (a), the Secretary of the Treasury shall
18 transfer from the general fund of the Treasury to
19 the Fund an amount equal to the lesser of the
20 amount of savings or \$14,000,000.

21 (3) USE OF FUNDS.—Of the amount trans-
22 ferred to the Fund under paragraph (2)—

23 (A) 50 percent shall be available to the
24 Commission without further appropriation to
25 carry out this title for the first fiscal year after
26 the date of enactment of this Act; and

1 (B) 50 percent shall be available to the
2 Commission without further appropriation to
3 carry out this title for the second fiscal year
4 after the date of enactment of this Act.

5 (e) DISCRETIONARY SPENDING LIMITS ADJUST-
6 MENT.—Section 251(b)(2) of the Balanced Budget and
7 Emergency Deficit Control Act of 1985 (2 U.S.C.
8 901(b)(2)) is amended by adding at the end the following:

9 “(E) NATIONAL CRIMINAL JUSTICE COM-
10 MISSION.—If amounts are transferred to the
11 National Criminal Justice Commission Fund es-
12 tablished under section 308(b) of the National
13 Criminal Justice Commission Act of 2017, the
14 adjustment shall be a reduction in the discre-
15 tionary spending limit for the revised nonsecu-
16 rity category—

17 “(i) for the first fiscal year after the
18 date of enactment of that Act, in an
19 amount equal to 50 percent of the amount
20 transferred to the Fund; and

21 “(ii) for the second fiscal year after
22 the date of enactment of that Act, in an
23 amount equal to 50 percent of the amount
24 transferred to the Fund.”.

25 (d) BUDGETARY EFFECTS.—

1 (1) STATUTORY PAYGO SCORECARDS.—The
2 budgetary effects of this section shall not be entered
3 on either PAYGO scorecard maintained pursuant to
4 section 4(d) of the Statutory Pay-As-You-Go Act of
5 2010.

6 (2) SENATE PAYGO SCORECARDS.—The budg-
7 etary effects of this section shall not be entered on
8 any PAYGO scorecard maintained for purposes of
9 section 201 of S. Con. Res. 21 (110th Congress).

10 **SEC. 309. SUNSET.**

11 The Commission shall terminate 60 days after the
12 Commission submits the report required under section 305
13 to Congress.