

118TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. DURBIN 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 “First Step Implementation Act of 2023”.

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. Application of First Step Act.

Sec. 102. Modifying safety valve for drug offenses.

TITLE II—CORRECTIONS REFORM

Sec. 201. Parole for juveniles.

Sec. 202. Juvenile sealing and expungement.

Sec. 203. Ensuring accuracy of Federal criminal records.

1 TITLE I—SENTENCING REFORM

2 SEC. 101. APPLICATION OF FIRST STEP ACT.

3 (a) DEFINITIONS.—In this section—

4 (1) the term “covered offense” means—

5 (A) a violation of a Federal criminal stat-
6 ute, the statutory penalties for which were
7 modified by section 401 or 403 of the First
8 Step Act of 2018 (Public Law 115–391; 132
9 Stat. 5220), that was committed on or before
10 December 21, 2018; or

11 (B) a violation of a Federal criminal stat-
12 ute, the statutory penalties for which are modi-
13 fied by subsection (b) of this section; and

14 (2) the term “serious violent felony” has the
15 meaning given that term in section 102 of the Con-
16 trolled Substances Act (21 U.S.C. 802).

17 (b) AMENDMENTS.—

18 (1) IN GENERAL.—

19 (A) CONTROLLED SUBSTANCES ACT.—Sec-
20 tion 401(b) of the Controlled Substances Act
21 (21 U.S.C. 841(b)) is amended—

22 (i) in paragraph (1)—

23 (I) in subparagraph (C), by strik-
24 ing “felony drug offense” and insert-

1 ing “serious drug felony or serious
2 violent felony”;

3 (II) in subparagraph (D), by
4 striking “felony drug offense” and in-
5 serting “serious drug felony or serious
6 violent felony”; and

7 (III) in subparagraph (E)(ii), by
8 striking “felony drug offense” and in-
9 serting “serious drug felony or serious
10 violent felony”;

11 (ii) in paragraph (2), by striking “fel-
12 ony drug offense” and inserting “serious
13 drug felony or serious violent felony”; and

14 (iii) in paragraph (3), by striking “fel-
15 ony drug offense” and inserting “serious
16 drug felony or serious violent felony”.

17 (B) CONTROLLED SUBSTANCES IMPORT
18 AND EXPORT ACT.—Section 1010(b)(3) of the
19 Controlled Substances Import and Export Act
20 (21 U.S.C. 960(b)(3)) is amended by striking
21 “felony drug offense” and inserting “serious
22 drug felony or serious violent felony”.

23 (2) PENDING CASES.—This subsection, and the
24 amendments made by this subsection, shall apply to
25 any sentence imposed on or after the date of enact-

1 ment of this Act, regardless of when the offense was
2 committed.

3 (c) DEFENDANTS PREVIOUSLY SENTENCED.—A
4 court that imposed a sentence for a covered offense may,
5 on motion of the defendant, the Director of the Bureau
6 of Prisons, the attorney for the Government, or the court,
7 impose a reduced sentence as if sections 401 and 403 of
8 the First Step Act of 2018 (Public Law 115–391; 132
9 Stat. 5220) and the amendments made by subsection (b)
10 of this section were in effect at the time the covered of-
11 fense was committed if, after considering the factors set
12 forth in section 3553(a) of title 18, United States Code,
13 the nature and seriousness of the danger to any person,
14 the community, or any crime victims, and the post-sen-
15 tencing conduct of the defendant, the sentencing court
16 finds a reduction is consistent with the amendments made
17 by section 401 or 403 of the First Step Act of 2018 (Pub-
18 lic Law 115–391; 132 Stat. 5220) or with subsection (b)
19 of this section.

20 (d) CRIME VICTIMS.—Any proceeding under this sec-
21 tion shall be subject to section 3771 of title 18, United
22 States Code (commonly known as the “Crime Victims’
23 Rights Act”).

24 (e) REQUIREMENT.—For each motion filed under
25 subsection (c), the Government shall conduct a particular-

1 ized inquiry of the facts and circumstances of the original
2 sentencing of the defendant in order to assess whether a
3 reduction in sentence would be consistent with the First
4 Step Act of 2018 (Public Law 115–391; 132 Stat. 5194)
5 and the amendments made by that Act, including a review
6 of any prior criminal conduct or any other relevant infor-
7 mation from Federal, State, and local authorities.

8 **SEC. 102. MODIFYING SAFETY VALVE FOR DRUG OFFENSES.**

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

11 (1) by redesignating subsection (g) as sub-
12 section (h); and

13 (2) by inserting after subsection (f) the fol-
14 lowing:

15 “(g) INADEQUACY OF CRIMINAL HISTORY.—

16 “(1) IN GENERAL.—If subsection (f) does not
17 apply to a defendant because the defendant does not
18 meet the requirements described in subsection (f)(1)
19 (relating to criminal history), the court may, upon
20 prior notice to the Government, waive subsection
21 (f)(1) if the court specifies in writing the specific
22 reasons why reliable information indicates that ex-
23 cluding the defendant pursuant to subsection (f)(1)
24 substantially overrepresents the seriousness of the

1 defendant's criminal history or the likelihood that
2 the defendant will commit other crimes.

3 “(2) PROHIBITION.—This subsection shall not
4 apply to any defendant who has been convicted of a
5 serious drug felony or a serious violent felony, as
6 those terms are defined in section 102 of the Con-
7 trolled Substances Act (21 U.S.C. 802).”.

8 **TITLE II—CORRECTIONS**

9 **REFORM**

10 **SEC. 201. PAROLE FOR JUVENILES.**

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

14 **“§ 5032A. Modification of an imposed term of impris-**

15 **onment for violations of law committed**

16 **prior to age 18**

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

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

24 “(2) the court finds, after considering the fac-
25 tors set forth in subsection (c), that the defendant

1 is not a danger to the safety of any person or the
2 community and that the interests of justice warrant
3 a sentence modification.

4 “(b) SUPERVISED RELEASE.—Any defendant whose
5 sentence is reduced pursuant to subsection (a) shall be or-
6 dered to serve a period of supervised release of not less
7 than 5 years following release from imprisonment. The
8 conditions of supervised release and any modification or
9 revocation of the term of supervise release shall be in ac-
10 cordance with section 3583.

11 “(c) FACTORS AND INFORMATION TO BE CONSID-
12 ERED IN DETERMINING WHETHER TO MODIFY A TERM
13 OF IMPRISONMENT.—The court, in determining whether
14 to reduce a term of imprisonment pursuant to subsection
15 (a), shall consider—

16 “(1) the factors described in section 3553(a),
17 including the nature of the offense and the history
18 and characteristics of the defendant;

19 “(2) the age of the defendant at the time of the
20 offense;

21 “(3) a report and recommendation of the Bu-
22 reau of Prisons, including information on whether
23 the defendant has substantially complied with the
24 rules of each institution in which the defendant has
25 been confined and whether the defendant has com-

1 pleted any educational, vocational, or other prison
2 program, where available;

3 “(4) a report and recommendation of the
4 United States attorney for any district in which an
5 offense for which the defendant is imprisoned was
6 prosecuted;

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

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

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

17 “(8) the family and community circumstances
18 of the defendant at the time of the offense, including
19 any history of abuse, trauma, or involvement in the
20 child welfare system;

21 “(9) the extent of the role of the defendant in
22 the offense and whether, and to what extent, an
23 adult was involved in the offense;

24 “(10) the diminished culpability of juveniles as
25 compared to that of adults, and the hallmark fea-

1 tures of youth, including immaturity, impetuosity,
2 and failure to appreciate risks and consequences,
3 which counsel against sentencing juveniles to the
4 otherwise applicable term of imprisonment; and

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

7 “(d) LIMITATION ON APPLICATIONS PURSUANT TO
8 THIS SECTION.—

9 “(1) SECOND APPLICATION.—Not earlier than
10 5 years after the date on which an order entered by
11 a court on an initial application under this section
12 becomes final, a court shall entertain a second appli-
13 cation by the same defendant under this section.

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

19 “(3) PROHIBITION.—A court may not entertain
20 an application filed after an application filed under
21 paragraph (2) by the same defendant.

22 “(e) PROCEDURES.—

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

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

6 “(B) the sentencing court, the United
7 States attorney, and the Federal Public De-
8 fender or Executive Director of the Community
9 Defender Organization for the judicial district
10 in which the sentence described in subpara-
11 graph (A) was imposed.

12 “(2) CRIME VICTIMS’ RIGHTS.—Upon receiving
13 notice under paragraph (1), the United States attor-
14 ney shall provide any notifications required under
15 section 3771.

16 “(3) APPLICATION.—

17 “(A) IN GENERAL.—An application for a
18 sentence reduction under this section shall be
19 filed as a motion to reduce the sentence of the
20 defendant and may include affidavits or other
21 written material.

22 “(B) REQUIREMENT.—A motion to reduce
23 a sentence under this section shall be filed with
24 the sentencing court and a copy shall be served

1 on the United States attorney for the judicial
2 district in which the sentence was imposed.

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

4 “(A) EXPANDING THE RECORD.—After the
5 filing of a motion to reduce a sentence under
6 this section, the court may direct the parties to
7 expand the record by submitting additional
8 written materials relating to the motion.

9 “(B) HEARING.—

10 “(i) IN GENERAL.—The court shall
11 conduct a hearing on the motion, at which
12 the defendant and counsel for the defend-
13 ant shall be given the opportunity to be
14 heard.

15 “(ii) EVIDENCE.—In a hearing under
16 this section, the court may allow parties to
17 present evidence.

18 “(iii) DEFENDANT’S PRESENCE.—At
19 a hearing under this section, the defendant
20 shall be present unless the defendant
21 waives the right to be present. The re-
22 quirement under this clause may be satis-
23 fied by the defendant appearing by video
24 teleconference.

1 “(iv) COUNSEL.—A defendant who is
2 unable to obtain counsel is entitled to have
3 counsel appointed to represent the defend-
4 ant for proceedings under this section, in-
5 cluding any appeal, unless the defendant
6 waives the right to counsel.

7 “(v) FINDINGS.—The court shall state
8 in open court, and file in writing, the rea-
9 sons for granting or denying a motion
10 under this section.

11 “(C) APPEAL.—The Government or the
12 defendant may file a notice of appeal in the dis-
13 trict court for review of a final order under this
14 section. The time limit for filing such appeal
15 shall be governed by rule 4(a) of the Federal
16 Rules of Appellate Procedure.

17 “(f) EDUCATIONAL AND REHABILITATIVE PRO-
18 GRAMS.—A defendant who is convicted and sentenced as
19 an adult for an offense committed and completed before
20 the defendant attained 18 years of age may not be de-
21 prived of any educational, training, or rehabilitative pro-
22 gram that is otherwise available to the general prison pop-
23 ulation.”.

24 (b) TABLE OF SECTIONS.—The table of sections for
25 chapter 403 of title 18, United States Code, is amended

1 by inserting after the item relating to section 5032 the
2 following:

“5032A. Modification of an imposed term of imprisonment for violations of law
committed prior to age 18.”.

3 (c) APPLICABILITY.—The amendments made by this
4 section shall apply to any conviction entered before, on,
5 or after the date of enactment of this Act.

6 **SEC. 202. JUVENILE SEALING AND EXPUNGEMENT.**

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

8 (1) protect children and adults against damage
9 stemming from their juvenile acts and subsequent
10 juvenile delinquency records, including law enforce-
11 ment, arrest, and court records; and

12 (2) prevent the unauthorized use or disclosure
13 of confidential juvenile delinquency records and any
14 potential employment, financial, psychological, or
15 other harm that would result from such unauthor-
16 ized use or disclosure.

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

19 **“§ 5031. Definitions**

20 “In this chapter—

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

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

4 “(3) the term ‘destroy’ means to render a file
5 unreadable, whether paper, electronic, or otherwise
6 stored, by shredding, pulverizing, pulping, incin-
7 erating, overwriting, reformatting the media, or
8 other means;

9 “(4) the term ‘expunge’ means to destroy a
10 record and obliterate the name of the person to
11 whom the record pertains from each official index or
12 public record;

13 “(5) the term ‘expungement hearing’ means a
14 hearing held under section 5045(b)(2)(B);

15 “(6) the term ‘expungement petition’ means a
16 petition for expungement filed under section
17 5045(b);

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

22 “(8) the term ‘juvenile’ means—

23 “(A) except as provided in subparagraph
24 (B), a person who has not attained the age of
25 18 years; and

1 “(B) for the purpose of proceedings and
2 disposition under this chapter for an alleged act
3 of juvenile delinquency, a person who has not
4 attained the age of 21 years;

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

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

12 “(A) in the case of an arrest or an adju-
13 dication that is dismissed or finds the juvenile
14 to be not delinquent, an act of juvenile delin-
15 quency that is not—

16 “(i) a criminal homicide, forcible rape
17 or any other sex offense (as defined in sec-
18 tion 111 of the Sex Offender Registration
19 and Notification Act (34 U.S.C. 20911)),
20 kidnapping, aggravated assault, robbery,
21 burglary of an occupied structure, arson,
22 or a drug trafficking crime in which a fire-
23 arm was used; or

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

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

4 “(i) described in clause (i) or (ii) of
5 subparagraph (A); or

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

8 “(11) the term ‘juvenile record’—

9 “(A) means a record maintained by a
10 court, the probation system, a law enforcement
11 agency, or any other government agency, of the
12 juvenile delinquency proceedings of a person;

13 “(B) includes—

14 “(i) a juvenile legal file, including a
15 formal document such as a petition, notice,
16 motion, legal memorandum, order, or de-
17 cree;

18 “(ii) a social record, including—

19 “(I) a record of a probation offi-
20 cer;

21 “(II) a record of any government
22 agency that keeps records relating to
23 juvenile delinquency;

24 “(III) a medical record;

1 “(IV) a psychiatric or psycho-
2 logical record;

3 “(V) a birth certificate;

4 “(VI) an education record, in-
5 cluding an individualized education
6 plan;

7 “(VII) a detention record;

8 “(VIII) demographic information
9 that identifies a juvenile or the family
10 of a juvenile; or

11 “(IX) any other record that in-
12 cludes personally identifiable informa-
13 tion that may be associated with a ju-
14 venile delinquency proceeding, an act
15 of juvenile delinquency, or an alleged
16 act of juvenile delinquency; and

17 “(iii) a law enforcement record, in-
18 cluding a photograph or a State criminal
19 justice information system record; and

20 “(C) does not include—

21 “(i) fingerprints; or

22 “(ii) a DNA sample;

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

25 “(13) the term ‘seal’ means—

1 “(A) to close a record from public viewing
2 so that the record cannot be examined except
3 by court order; and

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

7 “(14) the term ‘sealing hearing’ means a hear-
8 ing held under section 5044(b)(2)(B); and

9 “(15) the term ‘sealing petition’ means a peti-
10 tion for a sealing order filed under section
11 5044(b).”.

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

14 (1) in subsection (a), in the flush text following
15 paragraph (6), by inserting after “bonding,” the fol-
16 lowing: “participation in an educational system,”;
17 and

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

23 (d) SEALING; EXPUNGEMENT.—

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

4 **“§ 5044. Sealing**

5 “(a) AUTOMATIC SEALING OF NONVIOLENT OF-
6 FENSES.—

7 “(1) IN GENERAL.—Three years after the date
8 on which a person who is adjudicated delinquent
9 under this chapter for a juvenile nonviolent offense
10 completes every term of probation, official detention,
11 or juvenile delinquent supervision ordered by the
12 court with respect to the offense, the court shall
13 order the sealing of each juvenile record or portion
14 thereof that relates to the offense if the person—

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

18 “(B) is not engaged in active criminal
19 court proceedings or juvenile delinquency pro-
20 ceedings.

21 “(2) AUTOMATIC NATURE OF SEALING.—The
22 order of sealing under paragraph (1) shall require
23 no action by the person whose juvenile records are
24 to be sealed.

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

6 “(b) PETITIONING FOR EARLY SEALING OF NON-
7 VIOLENT OFFENSES.—

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

9 “(A) IN GENERAL.—During the 3-year pe-
10 riod beginning on the date on which a person
11 who is adjudicated delinquent under this chap-
12 ter for a juvenile nonviolent offense completes
13 every term of probation, official detention, or
14 juvenile delinquent supervision ordered by the
15 court with respect to the offense, the person
16 may petition the court to seal the juvenile
17 records that relate to the offense, unless the
18 person—

19 “(i) has been convicted of a crime or
20 adjudicated delinquent for an act of juve-
21 nile delinquency since the date of the dis-
22 position; or

23 “(ii) is engaged in active criminal
24 court proceedings or juvenile delinquency
25 proceedings.

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

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

15 “(ii) on the date on which the indi-
16 vidual has completed every term of proba-
17 tion, official detention, or juvenile delin-
18 quent supervision ordered by the court
19 with respect to the offense.

20 “(2) PROCEDURES.—

21 “(A) NOTIFICATION TO PROSECUTOR.—If
22 a person files a sealing petition with respect to
23 a juvenile nonviolent offense, the court in which
24 the petition is filed shall provide notice of the
25 petition—

1 “(i) to the Attorney General; and

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

5 “(I) the conduct of the petitioner
6 since the date of the offense; or

7 “(II) the reasons that the sealing
8 order should be entered.

9 “(B) HEARING.—

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

12 “(I) except as provided in clause
13 (iii), conduct a hearing in accordance
14 with clause (ii); and

15 “(II) determine whether to enter
16 a sealing order for the person in ac-
17 cordance with subparagraph (C).

18 “(ii) OPPORTUNITY TO TESTIFY AND
19 OFFER EVIDENCE.—

20 “(I) PETITIONER.—The peti-
21 tioner may testify or offer evidence at
22 the sealing hearing in support of seal-
23 ing.

24 “(II) PROSECUTOR.—The Attor-
25 ney General may send a representa-

1 tive to testify or offer evidence at the
2 sealing hearing in support of or
3 against sealing.

4 “(III) OTHER INDIVIDUALS.—An
5 individual who receives notice under
6 subparagraph (A)(ii) may testify or
7 offer evidence at the sealing hearing
8 as to the issues described in sub-
9 clauses (I) and (II) of that subpara-
10 graph.

11 “(iii) WAIVER OF HEARING.—If the
12 petitioner and the Attorney General so
13 agree, the court shall make a determina-
14 tion under subparagraph (C) without a
15 hearing.

16 “(C) BASIS FOR DECISION.—The court
17 shall determine whether to grant the sealing pe-
18 tition after considering—

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

21 “(ii) all the evidence and testimony
22 presented at the sealing hearing, if such a
23 hearing is conducted;

24 “(iii) the best interests of the peti-
25 tioner;

1 “(iv) the age of the petitioner during
2 his or her contact with the court or any
3 law enforcement agency;

4 “(v) the nature of the juvenile non-
5 violent offense;

6 “(vi) the disposition of the case;

7 “(vii) the manner in which the peti-
8 tioner participated in any court-ordered re-
9 habilitative programming or supervised
10 services;

11 “(viii) the length of the time period
12 during which the petitioner has been with-
13 out contact with any court or law enforce-
14 ment agency;

15 “(ix) whether the petitioner has had
16 any criminal or juvenile delinquency in-
17 volvement since the disposition of the juve-
18 nile delinquency proceeding; and

19 “(x) the adverse consequences the pe-
20 titioner may suffer if the petition is not
21 granted.

22 “(D) WAITING PERIOD AFTER DENIAL.—If
23 the court denies a sealing petition, the peti-
24 tioner may not file a new sealing petition with
25 respect to the same juvenile nonviolent offense

1 until the date that is 2 years after the date of
2 the denial.

3 “(E) UNIVERSAL FORM.—The Director of
4 the Administrative Office of the United States
5 Courts shall create a universal form, available
6 over the internet and in paper form, that an in-
7 dividual may use to file a sealing petition.

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

12 “(G) REPORTING.—Not later than 2 years
13 after the date of enactment of this section, and
14 each year thereafter, the Director of the Admin-
15 istrative Office of the United States Courts
16 shall issue a public report that—

17 “(i) describes—

18 “(I) the number of sealing peti-
19 tions granted and denied under this
20 subsection; and

21 “(II) the number of instances in
22 which the Attorney General supported
23 or opposed a sealing petition;

1 “(ii) includes any supporting data
2 that the Director determines relevant and
3 that does not name any petitioner; and

4 “(iii) disaggregates all relevant data
5 by race, ethnicity, gender, and the nature
6 of the offense.

7 “(H) PUBLIC DEFENDER ELIGIBILITY.—

8 “(i) PETITIONERS UNDER AGE 18.—

9 The district court shall appoint counsel in
10 accordance with the plan of the district
11 court in operation under section 3006A to
12 represent a petitioner for purposes of this
13 subsection if the petitioner is less than 18
14 years of age.

15 “(ii) PETITIONERS AGE 18 AND
16 OLDER.—

17 “(I) DISCRETION OF COURT.—In
18 the case of a petitioner who is not less
19 than 18 years of age, the district
20 court may, in its discretion, appoint
21 counsel in accordance with the plan of
22 the district court in operation under
23 section 3006A to represent the peti-
24 tioner for purposes of this subsection.

1 “(II) CONSIDERATIONS.—In de-
2 termining whether to appoint counsel
3 under subclause (I), the court shall
4 consider—

5 “(aa) the anticipated com-
6 plexity of the sealing hearing, in-
7 cluding the number and type of
8 witnesses called to advocate
9 against the sealing of the records
10 of the petitioner; and

11 “(bb) the potential for ad-
12 verse testimony by a victim or a
13 representative of the Attorney
14 General.

15 “(c) EFFECT OF SEALING ORDER.—

16 “(1) PROTECTION FROM DISCLOSURE.—Except
17 as provided in paragraphs (3) and (4), if a court or-
18 ders the sealing of a juvenile record of a person
19 under subsection (a) or (b) with respect to a juvenile
20 nonviolent offense, the proceedings in the case shall
21 be deemed never to have occurred, and the person
22 may properly reply accordingly to any inquiry about
23 the events the records of which are ordered sealed.

24 “(2) VERIFICATION OF SEALING.—If a court
25 orders the sealing of a juvenile record under sub-

1 section (a) or (b) with respect to a juvenile non-
2 violent offense, the court shall—

3 “(A) send a copy of the sealing order to
4 each entity or person known to the court that
5 possesses a record relating to the offense, in-
6 cluding each—

7 “(i) law enforcement agency; and

8 “(ii) public or private correctional or
9 detention facility;

10 “(B) in the sealing order, require each en-
11 tity or person described in subparagraph (A)
12 to—

13 “(i) seal the record; and

14 “(ii) submit a written certification to
15 the court, under penalty of perjury, that
16 the entity or person has sealed each paper
17 and electronic copy of the record;

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

20 “(D) after receiving a written certification
21 from each entity or person under subparagraph
22 (B)(ii), notify the petitioner that each entity or
23 person described in subparagraph (A) has
24 sealed each paper and electronic copy of the
25 record.

1 “(3) LAW ENFORCEMENT ACCESS TO SEALED
2 RECORDS.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), a law enforcement agency
5 may access a sealed juvenile record in the pos-
6 session of the agency or another law enforce-
7 ment agency solely—

8 “(i) to determine whether the person
9 who is the subject of the record is a non-
10 violent offender eligible for a first-time-of-
11 fender diversion program;

12 “(ii) for investigatory or prosecutorial
13 purposes; or

14 “(iii) for a background check that re-
15 lates to—

16 “(I) law enforcement employ-
17 ment; or

18 “(II) any position that a Federal
19 agency designates as a—

20 “(aa) national security posi-
21 tion; or

22 “(bb) high-risk, public trust
23 position.

24 “(B) TRANSITION PERIOD.—During the 1-
25 year period beginning on the date on which a

1 court orders the sealing of a juvenile record
2 under this section, a law enforcement agency
3 may, for law enforcement purposes, access the
4 record if the record is in the possession of the
5 agency or another law enforcement agency.

6 “(4) PROHIBITION ON DISCLOSURE.—

7 “(A) PROHIBITION.—Except as provided
8 in subparagraph (C), it shall be unlawful to in-
9 tentiously make or attempt to make an unau-
10 thorized disclosure of any information from a
11 sealed juvenile record in violation of this sec-
12 tion.

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

16 “(C) EXCEPTIONS.—

17 “(i) BACKGROUND CHECKS.—In the
18 case of a background check for law en-
19 forcement employment or for any employ-
20 ment that requires a government security
21 clearance—

22 “(I) a person who is the subject
23 of a juvenile record sealed under this
24 section shall disclose the contents of
25 the record; and

1 “(II) a law enforcement agency
2 that possesses a juvenile record sealed
3 under this section—

4 “(aa) may disclose the con-
5 tents of the record; and

6 “(bb) if the agency obtains
7 or is subject to a court order au-
8 thorizing disclosure of the record,
9 may disclose the record.

10 “(ii) DISCLOSURE TO ARMED
11 FORCES.—A person, including a law en-
12 forcement agency that possesses a juvenile
13 record sealed under this section, may dis-
14 close information from a juvenile record
15 sealed under this section to the Secretaries
16 of the military departments (or the Sec-
17 retary of Homeland Security with respect
18 to the Coast Guard when it is not oper-
19 ating as a service in the Navy) for the pur-
20 pose of vetting an enlistment or commis-
21 sion, or with regard to any member of the
22 Armed Forces.

23 “(iii) CRIMINAL AND JUVENILE PRO-
24 CEEDINGS.—A prosecutor or other law en-
25 forcement officer may disclose information

1 from a juvenile record sealed under this
2 section, and a person who is the subject of
3 a juvenile record sealed under this section
4 may be required to testify or otherwise dis-
5 close information about the record, in a
6 criminal or other proceeding if such disclo-
7 sure is required by the Constitution of the
8 United States, the constitution of a State,
9 or a Federal or State statute or rule.

10 “(iv) AUTHORIZATION FOR PERSON
11 TO DISCLOSE OWN RECORD.—A person
12 who is the subject of a juvenile record
13 sealed under this section may choose to
14 disclose the record.

15 “(d) LIMITATION RELATING TO SUBSEQUENT INCI-
16 DENTS.—

17 “(1) AFTER FILING AND BEFORE PETITION
18 GRANTED.—If, after the date on which a person files
19 a sealing petition with respect to a juvenile offense
20 and before the court determines whether to grant
21 the petition, the person is convicted of a crime, adju-
22 dicated delinquent for an act of juvenile delinquency,
23 or engaged in active criminal court proceedings or
24 juvenile delinquency proceedings, the court shall
25 deny the petition.

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

6 “(A) the court shall—

7 “(i) vacate the order; and

8 “(ii) notify the person who is the sub-
9 ject of the juvenile record, and each entity
10 or person described in subsection
11 (c)(2)(A), that the order has been vacated;
12 and

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

14 “(e) INCLUSION OF STATE JUVENILE DELINQUENCY
15 ADJUDICATIONS AND PROCEEDINGS.—For purposes of
16 subparagraphs (A) and (B) of subsection (a)(1), clauses
17 (i) and (ii) of subsection (b)(1)(A), subsection
18 (b)(2)(C)(ix), and paragraphs (1) and (2) of subsection
19 (d), the term ‘juvenile delinquency’ includes the violation
20 of a law of a State committed by a person before attaining
21 the age of 18 years which would have been a crime if com-
22 mitted by an adult.

23 **“§ 5045. Expungement**

24 “(a) AUTOMATIC EXPUNGEMENT OF CERTAIN
25 RECORDS.—

1 “(1) ATTORNEY GENERAL MOTION.—

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

17 “(B) ARRESTS.—If a juvenile is arrested
18 by a Federal law enforcement agency for a ju-
19 venile nonviolent offense for which a juvenile
20 delinquency proceeding is not instituted under
21 this chapter, and for which the United States
22 does not proceed against the juvenile as an
23 adult in a district court of the United States,
24 the Attorney General shall file a motion in the
25 district court of the United States that would

1 have had jurisdiction of the proceeding request-
2 ing that each juvenile record relating to the ar-
3 rest be expunged.

4 “(C) EXPUNGEMENT ORDER.—Upon the
5 filing of a motion in a district court of the
6 United States with respect to a juvenile non-
7 violent offense under subparagraph (A) or an
8 arrest for a juvenile nonviolent offense under
9 subparagraph (B), the court shall grant the mo-
10 tion and order that each juvenile record relating
11 to the offense or arrest, as applicable, be ex-
12 punged.

13 “(2) DISMISSED CASES.—If a district court of
14 the United States dismisses an information with re-
15 spect to a juvenile under this chapter or finds a ju-
16 venile not to be delinquent in a juvenile delinquency
17 proceeding under this chapter, the court shall con-
18 currently order that each juvenile record relating to
19 the applicable proceeding be expunged.

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

24 “(4) NOTICE OF AUTOMATIC EXPUNGEMENT.—
25 A court that orders the expungement of a juvenile

1 record of a person under paragraph (1)(C) or (2)
2 shall, in writing, inform the person of the
3 expungement and the benefits of expunging the
4 record.

5 “(b) PETITIONING FOR EXPUNGEMENT OF NON-
6 VIOLENT OFFENSES.—

7 “(1) IN GENERAL.—A person who is adju-
8 dicated delinquent under this chapter for a juvenile
9 nonviolent offense committed on or after the date on
10 which the person attained 15 years of age may peti-
11 tion the court in which the proceeding took place to
12 order the expungement of the juvenile record that
13 relates to the offense unless the person—

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

17 “(B) is engaged in active criminal court
18 proceedings or juvenile delinquency proceedings;
19 or

20 “(C) has had not less than 2 adjudications
21 of delinquency previously expunged under this
22 section.

23 “(2) PROCEDURES.—

24 “(A) NOTIFICATION OF PROSECUTOR AND
25 VICTIMS.—If a person files an expungement pe-

1 tition with respect to a juvenile nonviolent of-
2 fense, the court in which the petition is filed
3 shall provide notice of the petition—

4 “(i) to the Attorney General; and

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

8 “(I) the conduct of the petitioner
9 since the date of the offense; or

10 “(II) the reasons that the
11 expungement order should be entered.

12 “(B) HEARING.—

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

15 “(I) except as provided in clause
16 (iii), conduct a hearing in accordance
17 with clause (ii); and

18 “(II) determine whether to enter
19 an expungement order for the person
20 in accordance with subparagraph (C).

21 “(ii) OPPORTUNITY TO TESTIFY AND
22 OFFER EVIDENCE.—

23 “(I) PETITIONER.—The peti-
24 tioner may testify or offer evidence at

1 the expungement hearing in support
2 of expungement.

3 “(II) PROSECUTOR.—The Attor-
4 ney General may send a representa-
5 tive to testify or offer evidence at the
6 expungement hearing in support of or
7 against expungement.

8 “(III) OTHER INDIVIDUALS.—An
9 individual who receives notice under
10 subparagraph (A)(ii) may testify or
11 offer evidence at the expungement
12 hearing as to the issues described in
13 subclauses (I) and (II) of that sub-
14 paragraph.

15 “(iii) WAIVER OF HEARING.—If the
16 petitioner and the Attorney General so
17 agree, the court shall make a determina-
18 tion under subparagraph (C) without a
19 hearing.

20 “(C) BASIS FOR DECISION.—The court
21 shall determine whether to grant an
22 expungement petition after considering—

23 “(i) the petition and any documents in
24 the possession of the court;

1 “(ii) all the evidence and testimony
2 presented at the expungement hearing, if
3 such a hearing is conducted;

4 “(iii) the best interests of the peti-
5 tioner;

6 “(iv) the age of the petitioner during
7 his or her contact with the court or any
8 law enforcement agency;

9 “(v) the nature of the juvenile non-
10 violent offense;

11 “(vi) the disposition of the case;

12 “(vii) the manner in which the peti-
13 tioner participated in any court-ordered re-
14 habilitative programming or supervised
15 services;

16 “(viii) the length of the time period
17 during which the petitioner has been with-
18 out contact with any court or any law en-
19 forcement agency;

20 “(ix) whether the petitioner has had
21 any criminal or juvenile delinquency in-
22 volvement since the disposition of the juve-
23 nile delinquency proceeding; and

1 “(x) the adverse consequences the pe-
2 titioner may suffer if the petition is not
3 granted.

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

9 “(E) UNIVERSAL FORM.—The Director of
10 the Administrative Office of the United States
11 Courts shall create a universal form, available
12 over the internet and in paper form, that an in-
13 dividual may use to file an expungement peti-
14 tion.

15 “(F) NO FEE FOR INDIGENT PETI-
16 TIONERS.—If the court determines that the pe-
17 titioner is indigent, there shall be no cost for
18 filing an expungement petition.

19 “(G) REPORTING.—Not later than 2 years
20 after the date of enactment of this section, and
21 each year thereafter, the Director of the Admin-
22 istrative Office of the United States Courts
23 shall issue a public report that—

24 “(i) describes—

1 “(I) the number of expungement
2 petitions granted and denied under
3 this subsection; and

4 “(II) the number of instances in
5 which the Attorney General supported
6 or opposed an expungement petition;

7 “(ii) includes any supporting data
8 that the Director determines relevant and
9 that does not name any petitioner; and

10 “(iii) disaggregates all relevant data
11 by race, ethnicity, gender, and the nature
12 of the offense.

13 “(H) PUBLIC DEFENDER ELIGIBILITY.—

14 “(i) PETITIONERS UNDER AGE 18.—
15 The district court shall appoint counsel in
16 accordance with the plan of the district
17 court in operation under section 3006A to
18 represent a petitioner for purposes of this
19 subsection if the petitioner is less than 18
20 years of age.

21 “(ii) PETITIONERS AGE 18 AND
22 OLDER.—

23 “(I) DISCRETION OF COURT.—In
24 the case of a petitioner who is not less
25 than 18 years of age, the district

1 court may, in its discretion, appoint
2 counsel in accordance with the plan of
3 the district court in operation under
4 section 3006A to represent the peti-
5 tioner for purposes of this subsection.

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

10 “(aa) the anticipated com-
11 plexity of the expungement hear-
12 ing, including the number and
13 type of witnesses called to advo-
14 cate against the expungement of
15 the records of the petitioner; and

16 “(bb) the potential for ad-
17 verse testimony by a victim or a
18 representative of the Attorney
19 General.

20 “(c) EFFECT OF EXPUNGED JUVENILE RECORD.—

21 “(1) PROTECTION FROM DISCLOSURE.—Except
22 as provided in paragraphs (4) through (8), if a court
23 orders the expungement of a juvenile record of a
24 person under subsection (a) or (b) with respect to a
25 juvenile nonviolent offense, the proceedings in the

1 case shall be deemed never to have occurred, and the
2 person may properly reply accordingly to any inquiry
3 about the events the records of which are ordered
4 expunged.

5 “(2) VERIFICATION OF EXPUNGEMENT.—If a
6 court orders the expungement of a juvenile record
7 under subsection (a) or (b) with respect to a juvenile
8 nonviolent offense, the court shall—

9 “(A) send a copy of the expungement order
10 to each entity or person known to the court
11 that possesses a record relating to the offense,
12 including each—

13 “(i) law enforcement agency; and

14 “(ii) public or private correctional or
15 detention facility;

16 “(B) in the expungement order—

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

19 “(I) seal the record for 1 year
20 and, during that 1-year period, apply
21 paragraphs (3) and (4) of section
22 5044(c) with respect to the record;

23 “(II) on the date that is 1 year
24 after the date of the order, destroy
25 the record unless a subsequent inci-

1 dent described in subsection (d)(2) oc-
2 curs; and

3 “(III) submit a written certifi-
4 cation to the court, under penalty of
5 perjury, that the entity or person has
6 destroyed each paper and electronic
7 copy of the record; and

8 “(ii) explain that if a subsequent inci-
9 dent described in subsection (d)(2) occurs,
10 the order shall be vacated and the record
11 shall no longer be sealed;

12 “(C) on the date that is 1 year after the
13 date of the order, destroy each paper and elec-
14 tronic copy of the record in the possession of
15 the court unless a subsequent incident described
16 in subsection (d)(2) occurs; and

17 “(D) after receiving a written certification
18 from each entity or person under subparagraph
19 (B)(i)(III), notify the petitioner that each entity
20 or person described in subparagraph (A) has
21 destroyed each paper and electronic copy of the
22 record.

23 “(3) REPLY TO INQUIRIES.—On and after the
24 date that is 1 year after the date on which a court
25 orders the expungement of a juvenile record of a

1 person under this section, in the case of an inquiry
2 relating to the juvenile record, the court, each law
3 enforcement officer, any agency that provided treat-
4 ment or rehabilitation services to the person, and the
5 person (except as provided in paragraphs (4)
6 through (8)) shall reply to the inquiry that no such
7 juvenile record exists.

8 “(4) CIVIL ACTIONS.—

9 “(A) IN GENERAL.—On and after the date
10 on which a court orders the expungement of a
11 juvenile record of a person under this section,
12 if the person brings an action against a law en-
13 forcement agency that arrested, or participated
14 in the arrest of, the person for the offense to
15 which the record relates, or against the State or
16 political subdivision of a State of which the law
17 enforcement agency is an agency, in which the
18 contents of the record are relevant to the reso-
19 lution of the issues presented in the action,
20 there shall be a rebuttable presumption that the
21 defendant has a complete defense to the action.

22 “(B) SHOWING BY PLAINTIFF.—In an ac-
23 tion described in subparagraph (A), the plaintiff
24 may rebut the presumption of a complete de-
25 fense by showing that the contents of the ex-

1 punged record would not prevent the defendant
2 from being held liable.

3 “(C) DUTY TO TESTIFY AS TO EXISTENCE
4 OF RECORD.—The court in which an action de-
5 scribed in subparagraph (A) is filed may re-
6 quire the plaintiff to state under oath whether
7 the plaintiff had a juvenile record and whether
8 the record was expunged.

9 “(D) PROOF OF EXISTENCE OF JUVENILE
10 RECORD.—If the plaintiff in an action described
11 in subparagraph (A) denies the existence of a
12 juvenile record, the defendant may prove the ex-
13 istence of the record in any manner compatible
14 with the applicable laws of evidence.

15 “(5) CRIMINAL AND JUVENILE PRO-
16 CEEDINGS.—On and after the date that is 1 year
17 after the date on which a court orders the
18 expungement of a juvenile record under this section,
19 a prosecutor or other law enforcement officer may
20 disclose underlying information from the juvenile
21 record, and the person who is the subject of the ju-
22 venile record may be required to testify or otherwise
23 disclose information about the record, in a criminal
24 or other proceeding if such disclosure is required by

1 the Constitution of the United States, the constitu-
2 tion of a State, or a Federal or State statute or rule.

3 “(6) BACKGROUND CHECKS.—On and after the
4 date that is 1 year after the date on which a court
5 orders the expungement of a juvenile record under
6 this section, in the case of a background check for
7 law enforcement employment or for any employment
8 that requires a government security clearance, the
9 person who is the subject of the juvenile record may
10 be required to disclose underlying information from
11 the record.

12 “(7) DISCLOSURE TO ARMED FORCES.—On and
13 after the date that is 1 year after the date on which
14 a court orders the expungement of a juvenile record
15 under this section, a person, including a law enforce-
16 ment agency that possessed such a juvenile record,
17 may be required to disclose underlying information
18 from the record to the Secretaries of the military de-
19 partments (or the Secretary of Homeland Security
20 with respect to the Coast Guard when it is not oper-
21 ating as a service in the Navy) for the purpose of
22 vetting an enlistment or commission, or with regard
23 to any member of the Armed Forces.

24 “(8) AUTHORIZATION FOR PERSON TO DIS-
25 CLOSE OWN RECORD.—A person who is the subject

1 of a juvenile record expunged under this section may
2 choose to disclose the record.

3 “(9) TREATMENT AS SEALED RECORD DURING
4 TRANSITION PERIOD.—During the 1-year period be-
5 ginning on the date on which a court orders the
6 expungement of a juvenile record under this section,
7 paragraphs (3) and (4) of section 5044(c) shall
8 apply with respect to the record as if the record had
9 been sealed under that section.

10 “(d) LIMITATION RELATING TO SUBSEQUENT INCI-
11 DENTS.—

12 “(1) AFTER FILING AND BEFORE PETITION
13 GRANTED.—If, after the date on which a person files
14 an expungement petition with respect to a juvenile
15 offense and before the court determines whether to
16 grant the petition, the person is convicted of a
17 crime, adjudicated delinquent for an act of juvenile
18 delinquency, or engaged in active criminal court pro-
19 ceedings or juvenile delinquency proceedings, the
20 court shall deny the petition.

21 “(2) AFTER PETITION GRANTED.—If, on or
22 after the date on which a court orders the
23 expungement of a juvenile record of a person under
24 subsection (b), the person is convicted of a crime,
25 adjudicated delinquent for an act of juvenile delin-

1 quency, or engaged in active criminal court pro-
2 ceedings or juvenile delinquency proceedings—

3 “(A) the court that ordered the
4 expungement shall—

5 “(i) vacate the order; and

6 “(ii) notify the person who is the sub-
7 ject of the juvenile record, and each entity
8 or person described in subsection
9 (c)(2)(A), that the order has been vacated;
10 and

11 “(B) the record—

12 “(i) shall not be expunged; or

13 “(ii) if the record has been expunged
14 because 1 year has elapsed since the date
15 of the expungement order, shall not be
16 treated as having been expunged.

17 “(e) INCLUSION OF STATE JUVENILE DELINQUENCY
18 ADJUDICATIONS AND PROCEEDINGS.—For purposes of
19 subparagraphs (A) and (B) of subsection (b)(1), sub-
20 section (b)(2)(C)(ix), and paragraphs (1) and (2) of sub-
21 section (d), the term ‘juvenile delinquency’ includes the
22 violation of a law of a State committed by a person before
23 attaining the age of 18 years which would have been a
24 crime if committed by an adult.”.

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

“5044. Sealing.

“5045. Expungement.”.

5 (3) APPLICABILITY.—Sections 5044 and 5045
6 of title 18, United States Code, as added by para-
7 graph (1), shall apply with respect to a juvenile non-
8 violent offense (as defined in section 5031 of such
9 title, as amended by subsection (b)) that is com-
10 mitted or alleged to have been committed before, on,
11 or after the date of enactment of this Act.

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

17 **SEC. 203. ENSURING ACCURACY OF FEDERAL CRIMINAL**
18 **RECORDS.**

19 (a) IN GENERAL.—Section 534 of title 28, United
20 States Code, is amended by adding at the end the fol-
21 lowing:

22 “(g) ENSURING ACCURACY OF FEDERAL CRIMINAL
23 RECORDS.—

24 “(1) DEFINITIONS.—

1 “(A) IN GENERAL.—In this subsection—

2 “(i) the term ‘applicant’ means the in-
3 dividual to whom a record sought to be ex-
4 changed pertains;

5 “(ii) the term ‘high-risk, public trust
6 position’ means a position designated as a
7 public trust position under section
8 731.106(b) of title 5, Code of Federal Reg-
9 ulations, or any successor regulation;

10 “(iii) the term ‘incomplete’, with re-
11 spect to a record, means the record—

12 “(I) indicates that an individual
13 was arrested but does not describe the
14 offense for which the individual was
15 arrested; or

16 “(II) indicates that an individual
17 was arrested or criminal proceedings
18 were instituted against an individual
19 but does not include the final disposi-
20 tion of the arrest or of the pro-
21 ceedings if a final disposition has been
22 reached;

23 “(iv) the term ‘record’ means a record
24 or other information collected under this
25 section that relates to—

1 “(I) an arrest by a Federal law
2 enforcement officer; or

3 “(II) a Federal criminal pro-
4 ceeding;

5 “(v) the term ‘reporting jurisdiction’
6 means any person or entity that provides a
7 record to the Attorney General under this
8 section; and

9 “(vi) the term ‘requesting entity’—

10 “(I) means a person or entity
11 that seeks the exchange of a record
12 for civil purposes that include employ-
13 ment, housing, credit, or any other
14 type of application; and

15 “(II) does not include a law en-
16 forcement or intelligence agency that
17 seeks the exchange of a record for—

18 “(aa) investigative purposes;

19 or

20 “(bb) purposes relating to
21 law enforcement employment.

22 “(B) RULE OF CONSTRUCTION.—The defi-
23 nition of the term ‘requesting entity’ under sub-
24 paragraph (A) shall not be construed to author-

1 ize access to records that is not otherwise au-
2 thorized by law.

3 “(2) INCOMPLETE OR INACCURATE RECORDS.—

4 The Attorney General shall establish and enforce
5 procedures to ensure the prompt release of accurate
6 records exchanged for employment-related purposes
7 through the records system created under this sec-
8 tion.

9 “(3) REQUIRED PROCEDURES.—The procedures
10 established under paragraph (2) shall include the
11 following:

“(A) INACCURATE RECORD OR INFORMATION.—If the Attorney General determines that a record is inaccurate, the Attorney General shall promptly correct the record, including by making deletions to the record if appropriate.

17 “(B) INCOMPLETE RECORD.—

18 “(i) IN GENERAL.—If the Attorney
19 General determines that a record is incom-
20 plete or cannot be verified, the Attorney
21 General—

22 “(I) shall attempt to complete or
23 verify the record; and

24 “(II) if unable to complete or
25 verify the record, may promptly make

1 any changes or deletions to the
2 record.

3 “(ii) LACK OF DISPOSITION OF AR-
4 REST.—For purposes of this subpara-
5 graph, an incomplete record includes a
6 record that indicates there was an arrest
7 and does not include the disposition of the
8 arrest.

9 “(iii) OBTAINING DISPOSITION OF AR-
10 REST.—If the Attorney General determines
11 that a record is an incomplete record de-
12 scribed in clause (ii), the Attorney General
13 shall, not later than 10 days after the date
14 on which the requesting entity requests the
15 exchange and before the exchange is made,
16 obtain the disposition (if any) of the ar-
17 rest.

18 “(C) NOTIFICATION OF REPORTING JURIS-
19 DICTION.—The Attorney General shall notify
20 each appropriate reporting jurisdiction of any
21 action taken under subparagraph (A) or (B).

22 “(D) OPPORTUNITY TO REVIEW RECORDS
23 BY APPLICANT.—In connection with an ex-
24 change of a record under this section, the At-
25 torney General shall—

1 “(i) notify the applicant that the ap-
2 plicant can obtain a copy of the record as
3 described in clause (ii) if the applicant
4 demonstrates a reasonable basis for the ap-
5 plicant’s review of the record;

6 “(ii) provide to the applicant an op-
7 portunity, upon request and in accordance
8 with clause (i), to—

9 “(I) obtain a copy of the record;
10 and

11 “(II) challenge the accuracy and
12 completeness of the record;

13 “(iii) promptly notify the requesting
14 entity of any such challenge;

15 “(iv) not later than 30 days after the
16 date on which the challenge is made, com-
17 plete an investigation of the challenge;

18 “(v) provide to the applicant the spe-
19 cific findings and results of that investiga-
20 tion;

21 “(vi) promptly make any changes or
22 deletions to the records required as a re-
23 sult of the challenge; and

24 “(vii) report those changes to the re-
25 questing entity.

1 “(E) CERTAIN EXCHANGES PROHIBITED.—

2 “(i) IN GENERAL.—An exchange shall
3 not include any record—

4 “(I) except as provided in clause
5 (ii), about an arrest more than 2
6 years old as of the date of the request
7 for the exchange, that does not also
8 include a disposition (if any) of that
9 arrest;

10 “(II) relating to an adult or juve-
11 nile nonserious offense of the sort de-
12 scribed in section 20.32(b) of title 28,
13 Code of Federal Regulations, as in ef-
14 fect on July 1, 2009; or

15 “(III) to the extent the record is
16 not clearly an arrest or a disposition
17 of an arrest.

18 “(ii) APPLICANTS FOR SENSITIVE PO-
19 SITIONS.—The prohibition under clause
20 (i)(I) shall not apply in the case of a back-
21 ground check that relates to—

22 “(I) law enforcement employ-
23 ment; or

24 “(II) any position that a Federal
25 agency designates as a—

1 “(aa) national security posi-
2 tion; or

3 “(bb) high-risk, public trust
4 position.

5 “(4) FEES.—The Attorney General may collect
6 a reasonable fee for an exchange of records for em-
7 ployment-related purposes through the records sys-
8 tem created under this section to defray the costs
9 associated with exchanges for those purposes, includ-
10 ing any costs associated with the investigation of in-
11 accurate or incomplete records.”.

12 (b) REGULATIONS ON REASONABLE PROCEDURES.—
13 Not later than 1 year after the date of enactment of this
14 Act, the Attorney General shall issue regulations to carry
15 out section 534(g) of title 28, United States Code, as
16 added by subsection (a).

17 (c) REPORT.—

18 (1) DEFINITION.—In this subsection, the term
19 “record” has the meaning given the term in sub-
20 section (g) of section 534 of title 28, United States
21 Code, as added by subsection (a).

22 (2) REPORT REQUIRED.—Not later than 2
23 years after the date of enactment of this Act, the
24 Attorney General shall submit to Congress a report
25 on the implementation of subsection (g) of section

1 534 of title 28, United States Code, as added by
2 subsection (a), that includes—

3 (A) the number of exchanges of records for
4 employment-related purposes made with entities
5 in each State through the records system cre-
6 ated under such section 534;

7 (B) any prolonged failure of a Federal
8 agency to comply with a request by the Attor-
9 ney General for information about dispositions
10 of arrests; and

11 (C) the numbers of successful and unsuc-
12 cessful challenges to the accuracy and complete-
13 ness of records, organized by the Federal agen-
14 cy from which each record originated.