

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 2123

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. GRASSLEY

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

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 2015”.

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(c) of title 18, United States Code.

Sec. 105. Amendment to certain penalties for certain firearm offenses and
armed career criminal provision.

Sec. 106. Application of Fair Sentencing Act.

- Sec. 107. Mandatory minimum sentences for domestic violence offenses.
 Sec. 108. 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. 109. Inventory of Federal criminal offenses.

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. Prerelease custody.
 Sec. 205. Reports.
 Sec. 206. Additional tools to promote recovery and prevent drug and alcohol abuse and dependence.
 Sec. 207. Eric Williams Correctional Officer Protection Act.
 Sec. 208. Promoting successful reentry.
 Sec. 209. Parole for juveniles.
 Sec. 210. Compassionate release initiative.
 Sec. 211. Juvenile sealing and expungement.
 Sec. 212. Juvenile solitary confinement.
 Sec. 213. Ensuring accuracy of Federal criminal records.

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:

9 “(57) The term ‘serious drug felony’ means an
 10 offense described in section 924(e)(2)(A) of title 18,
 11 United States Code, for which the offender served a
 12 term of imprisonment of more than 12 months.

13 “(58) The term ‘serious violent felony’ means—
 14 “(A) an offense described in section
 15 3559(c)(2)(F) of title 18, United States Code,

1 for which the offender served a term of impris-
2 onment of more than 12 months; and

3 “(B) any offense that would be a felony
4 violation of section 113 of title 18, United
5 States Code, if the offense were committed in
6 the special maritime and territorial jurisdiction
7 of the United States, for which the offender
8 served a term of imprisonment of more than 12
9 months.”; and

10 (2) in section 401(b)(1) (21 U.S.C.
11 841(b)(1))—

12 (A) in subparagraph (A), in the flush text
13 following clause (viii)—

14 (i) by striking “If any person commits
15 such a violation after a prior conviction for
16 a felony drug offense has become final,
17 such person shall be sentenced to a term of
18 imprisonment which may not be less than
19 20 years” and inserting the following: “If
20 any person commits such a violation after
21 a prior conviction for a serious drug felony
22 or serious violent felony has become final,
23 such person shall be sentenced to a term of
24 imprisonment of not less than 15 years”;
25 and

1 (ii) by striking “after two or more
2 prior convictions for a felony drug offense
3 have become final, such person shall be
4 sentenced to a mandatory term of life im-
5 prisonment without release” and inserting
6 the following: “after 2 or more prior con-
7 victions for a serious drug felony or serious
8 violent felony have become final, such per-
9 son shall be sentenced to a term of impris-
10 onment of not less than 25 years”; and

11 (B) in subparagraph (B), in the flush text
12 following clause (viii), by striking “If any per-
13 son commits such a violation after a prior con-
14 viction for a felony drug offense has become
15 final” and inserting the following: “If any per-
16 son commits such a violation after a prior con-
17 viction for a serious drug felony or serious vio-
18 lent felony has become final”.

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

23 (1) in paragraph (1), in the flush text following
24 subparagraph (H), by striking “If any person com-
25 mits such a violation after a prior conviction for a

1 felony drug offense has become final, such person
2 shall be sentenced to a term of imprisonment of not
3 less than 20 years” and inserting “If any person
4 commits such a violation after a prior conviction for
5 a serious drug felony or serious violent felony has
6 become final, such person shall be sentenced to a
7 term of imprisonment of not less than 15 years”;
8 and

9 (2) in paragraph (2), in the flush text following
10 subparagraph (H), by striking “felony drug offense”
11 and inserting “serious drug felony or serious violent
12 felony”.

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

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

19 (2) PAST CASES.—

20 (A) IN GENERAL.—In the case of a defend-
21 ant who, before the date of enactment of this
22 Act, was convicted of an offense for which the
23 penalty is amended by this section and was sen-
24 tenced to a term of imprisonment for the of-
25 fense, the sentencing court may, on motion of

1 the defendant or the Director of the Bureau of
2 Prisons, or on its own motion, upon prior notice
3 to the Government, reduce the term of impris-
4 onment for the offense, after considering the
5 factors set forth in section 3553(a) of title 18,
6 United States Code, the nature and seriousness
7 of the danger to any person, the community, or
8 any crime victims, and the post-sentencing con-
9 duct of the defendant, if such a reduction is
10 consistent with this section and the amend-
11 ments made by this section. Any proceeding
12 under this paragraph shall be subject to section
13 3771 of title 18, United States Code (the Crime
14 Victims Rights Act).

15 (B) REQUIREMENT.—For each motion
16 filed under subparagraph (A), the Government
17 shall conduct a particularized inquiry of the
18 facts and circumstances of the original sen-
19 tencing of the defendant in order to assess
20 whether a reduction in sentence would be con-
21 sistent with this section and the amendments
22 made by this section.

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), by striking paragraph (1)
2 and inserting the following:

3 “(1) the defendant does not have—

4 “(A) more than 4 criminal history points
5 as determined under the sentencing guidelines;

6 “(B) a prior 3-point offense, as determined
7 under the sentencing guidelines; and

8 “(C) a prior 2-point drug trafficking or
9 violent offense, as determined under the sen-
10 tencing guidelines;” and

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

12 “(g) INADEQUACY OF CRIMINAL HISTORY.—

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

24 “(2) PROHIBITION.—This subsection shall not
25 apply to any defendant who has been convicted of a

1 serious drug felony or a serious violent felony as de-
2 fined in paragraphs (57) and (58), respectively, of
3 section 102 of the Controlled Substances Act (21
4 U.S.C. 802).

5 “(h) DEFINITIONS.—As used in this section—

6 “(1) the term ‘drug trafficking offense’ means
7 an offense that is punishable by imprisonment under
8 any law of the United States, or of a State or for-
9 eign country, that prohibits or restricts the importa-
10 tion, manufacture, or distribution of controlled sub-
11 stances or the possession of controlled substances
12 with intent to distribute; and

13 “(2) the term ‘violent offense’ means a ‘crime
14 of violence’, as defined in section 16, that is punish-
15 able by imprisonment.”.

16 (b) APPLICABILITY.—The amendments made by this
17 section shall apply only to a conviction entered on or after
18 the date of enactment of this Act.

19 **SEC. 103. LIMITATION ON APPLICATION OF THE 10-YEAR**
20 **MANDATORY MINIMUM.**

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

24 “(i) LIMITATION ON APPLICABILITY OF CERTAIN
25 STATUTORY MINIMUMS.—Notwithstanding any other pro-

1 vision of law, in the case of a conviction under section 401
2 or 406 of the Controlled Substances Act (21 U.S.C. 841
3 and 846) or section 1010 or 1013 of the Controlled Sub-
4 stances Import and Export Act (21 U.S.C. 960 and 963)
5 for which the statutory minimum term of imprisonment
6 is 10 years, the court may impose a sentence as if the
7 statutory minimum term of imprisonment was 5 years, if
8 the court finds at sentencing, after the Government has
9 been afforded the opportunity to make a recommendation,
10 that—

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

17 “(2) the defendant did not use violence or cred-
18 ible threats of violence or possess a firearm or other
19 dangerous weapon (or induce another participant to
20 do so) in connection with the offense, and the of-
21 fense did not result in death or serious bodily injury
22 to any person;

23 “(3) the defendant did not play an enhanced
24 role in the offense by acting as an organizer, leader,
25 manager, or supervisor of other participants in the

1 offense, as determined under the sentencing guide-
2 lines, or by exercising substantial authority or con-
3 trol over the criminal activity of a criminal organiza-
4 tion, regardless of whether the defendant was a
5 member of such organization;

6 “(4) the defendant did not act as an importer,
7 exporter, high-level distributor or supplier, whole-
8 saler, or manufacturer of the controlled substances
9 involved in the offense or engage in a continuing
10 criminal enterprise, as defined in section 408 of the
11 Controlled Substances Act (21 U.S.C. 848);

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

15 “(6) not later than the time of the sentencing
16 hearing, the defendant has truthfully provided to the
17 Government all information and evidence the defend-
18 ant has concerning the offense or offenses that were
19 part of the same course of conduct or of a common
20 scheme or plan, but the fact that the defendant has
21 no relevant or useful other information to provide or
22 that the Government is already aware of the infor-
23 mation shall not preclude a determination by the
24 court that the defendant has complied with this re-
25 quirement.

1 “(j) DEFINITIONS.—As used in subsection (i) of this
2 section—

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

5 “(A) means a defendant who imported, ex-
6 ported, or otherwise distributed or supplied
7 large quantities of a controlled substance to
8 other drug distributors; and

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

12 “(2) the term ‘manufacturer’ means a defend-
13 ant who grew, produced, or manufactured a con-
14 trolled substance and was the principal owner of
15 such controlled substance; and

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

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

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

24 (a) IN GENERAL.—Section 924(c)(1)(C) of title 18,
25 United States Code, is amended—

1 (1) in the matter preceding clause (i), by strik-
2 ing “second or subsequent conviction under this sub-
3 section” and inserting “violation of this subsection
4 that occurs after a prior conviction under this sub-
5 section or under State law for a crime of violence
6 that contains as an element of the offense the car-
7 rying, brandishing, or use of a firearm has become
8 final”; and

9 (2) in clause (i), by striking “not less than 25
10 years” and inserting “not less than 15 years”.

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

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

17 (2) PAST CASES.—

18 (A) IN GENERAL.—In the case of a defend-
19 ant who, before the date of enactment of this
20 Act, was convicted of an offense for which the
21 penalty is amended by this section and was sen-
22 tenced to a term of imprisonment for the of-
23 fense, the sentencing court may, on motion of
24 the defendant or the Director of the Bureau of
25 Prisons, or on its own motion, upon prior notice

1 to the Government, reduce the term of impris-
2 onment for the offense, after considering the
3 factors set forth in section 3553(a) of title 18,
4 United States Code, the nature and seriousness
5 of the danger to any person, the community, or
6 any crime victims, and the post-sentencing con-
7 duct of the defendant, if such a reduction is
8 consistent with this section and the amend-
9 ments made by this section. Any proceeding
10 under this paragraph shall be subject to section
11 3771 of title 18, United States Code (the Crime
12 Victims Rights Act).

13 (B) REQUIREMENT.—For each motion
14 filed under subparagraph (A), the Government
15 shall conduct a particularized inquiry of the
16 facts and circumstances of the original sen-
17 tencing of the defendant in order to assess
18 whether a reduction in sentence would be con-
19 sistent with this section and the amendments
20 made by this section.

21 **SEC. 105. AMENDMENT TO CERTAIN PENALTIES FOR CER-**
22 **TAIN FIREARM OFFENSES AND ARMED CA-**
23 **REER CRIMINAL PROVISION.**

24 (a) AMENDMENTS.—Section 924 of title 18, United
25 States Code, is amended—

1 (1) in subsection (a)(2), by striking “not more
2 than 10 years” and inserting “not more than 15
3 years”; and

4 (2) in subsection (e)(1), by striking “not less
5 than 15 years” and inserting “not less than 10
6 years”.

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

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

13 (2) PAST CASES.—

14 (A) IN GENERAL.—In the case of a defend-
15 ant who, before the date of enactment of this
16 Act, was convicted of an offense for which the
17 penalty is amended by this section and was sen-
18 tenced to a term of imprisonment for the of-
19 fense, the sentencing court may, on motion of
20 the defendant or the Director of the Bureau of
21 Prisons, or on its own motion, upon prior notice
22 to the Government, reduce the term of impris-
23 onment for the offense, after considering the
24 factors set forth in section 3553(a) of title 18,
25 United States Code, the nature and seriousness

1 of the danger to any person, the community, or
2 any crime victims, and the post-sentencing con-
3 duct of the defendant, if such a reduction is
4 consistent with this section and the amend-
5 ments made by this section. Any proceeding
6 under this paragraph shall be subject to section
7 3771 of title 18, United States Code (the Crime
8 Victims Rights Act).

9 (B) REQUIREMENT.—For each motion
10 filed under subparagraph (A), the Government
11 shall conduct a particularized inquiry of the
12 facts and circumstances of the original sen-
13 tencing of the defendant in order to assess
14 whether a reduction in sentence would be con-
15 sistent with this section and the amendments
16 made by this section.

17 **SEC. 106. APPLICATION OF FAIR SENTENCING ACT.**

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

24 (b) DEFENDANTS PREVIOUSLY SENTENCED.—A
25 court that imposed a sentence for a covered offense, may,

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

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

18 **SEC. 107. MANDATORY MINIMUM SENTENCES FOR DOMES-**
19 **TIC VIOLENCE OFFENSES.**

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

23 “(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. 108. 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. 109. 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)—

25 (A) the potential criminal penalty for the
26 criminal statutory offense;

1 (B) the number of violations of the crimi-
2 nal statutory offense referred to the Depart-
3 ment of Justice by an Executive agency for
4 prosecution in each of the years during the 15-
5 year period preceding the date of enactment of
6 this Act;

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

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

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

22 (F) the average length of sentence of im-
23 prisonment imposed as a result of conviction for
24 the criminal statutory offense during each year

1 of the 15-year period preceding the date of en-
2 actment of this Act;

3 (G) the mens rea requirement for the
4 criminal statutory offense; and

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

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

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

17 (2) for each criminal regulatory offense listed
18 under paragraph (1)—

19 (A) the potential criminal penalty for a
20 violation of the criminal regulatory offense;

21 (B) the number of violations of the crimi-
22 nal regulatory offense referred to the Depart-
23 ment of Justice for prosecution in each of the
24 years during the 15-year period preceding the
25 date of enactment of this Act;

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

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

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

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

21 (G) the mens rea requirement for the
22 criminal regulatory offense; and

23 (H) the number of prosecutions for the
24 criminal regulatory offense in which the De-

1 partment of Justice was not required to prove
2 mens rea as a component of the offense.

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

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

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

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

19 **TITLE II—CORRECTIONS ACT**

20 **SEC. 201. SHORT TITLE.**

21 This title may be cited as the “Corrections Oversight,
22 Recidivism Reduction, and Eliminating Costs for Tax-
23 payers In Our National System Act of 2015” or the
24 “CORRECTIONS Act”.

1 **SEC. 202. RECIDIVISM REDUCTION PROGRAMMING AND**
2 **PRODUCTIVE ACTIVITIES.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this Act, the Attorney General
5 shall—

6 (1) conduct a review of recidivism reduction
7 programming and productive activities, including
8 prison jobs, offered in correctional institutions, in-
9 cluding programming and activities offered in State
10 correctional institutions, which shall include a review
11 of research on the effectiveness of such programs;

12 (2) conduct a survey to identify products, in-
13 cluding products purchased by Federal agencies,
14 that are currently manufactured overseas and could
15 be manufactured by prisoners participating in a
16 prison work program without reducing job opportu-
17 nities for other workers in the United States; and

18 (3) submit to the Committee on the Judiciary
19 and the Committee on Appropriations of the Senate
20 and the Committee on the Judiciary and the Com-
21 mittee on Appropriations of the House of Represent-
22 atives a strategic plan for the expansion of recidi-
23 vism reduction programming and productive activi-
24 ties, including prison jobs, in Bureau of Prisons fa-
25 cilities required by section 3621(h)(1) of title 18,
26 United States Code, as added by subsection (b).

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

4 “(h) RECIDIVISM REDUCTION PROGRAMMING AND
5 PRODUCTIVE ACTIVITIES.—

6 “(1) IN GENERAL.—The Director of the Bureau
7 of Prisons, shall, subject to the availability of appro-
8 priations, make available to all eligible prisoners ap-
9 propriate recidivism reduction programming or pro-
10 ductive activities, including prison jobs, in accord-
11 ance with paragraph (2).

12 “(2) EXPANSION PERIOD.—

13 “(A) IN GENERAL.—In carrying out this
14 subsection, the Director of the Bureau of Pris-
15 ons shall have 6 years beginning on the date of
16 enactment of this subsection to ensure appro-
17 priate recidivism reduction programming and
18 productive activities, including prison jobs, are
19 available for all eligible prisoners.

20 “(B) CERTIFICATION.—

21 “(i) IN GENERAL.—The National In-
22 stitute of Corrections shall evaluate all re-
23 cidivism reduction programming or produc-
24 tive activities that are made available to el-
25 ible prisoners and determine whether

1 such programming or activities may be cer-
2 tified as evidence-based and effective at re-
3 ducing or mitigating offender risk and re-
4 cidivism.

5 “(ii) CONSIDERATIONS.—In deter-
6 mining whether or not to issue a certifi-
7 cation under clause (i), the National Insti-
8 tute of Corrections shall consult with inter-
9 nal or external program evaluation experts,
10 including the Office of Management and
11 Budget and the Comptroller General of the
12 United States to identify appropriate eval-
13 uation methodologies for each type of pro-
14 gram offered, and may use analyses of
15 similar programs conducted in other cor-
16 rectional settings.

17 “(3) RECIDIVISM REDUCTION PARTNERSHIPS.—
18 Not later than 18 months after the date of enact-
19 ment of this subsection, the Attorney General shall
20 issue regulations requiring the official in charge of
21 each correctional facility to ensure, subject to the
22 availability of appropriations, that appropriate re-
23 cidivism reduction programming and productive ac-
24 tivities, including prison jobs, are available for all el-
25 igible prisoners within the time period specified in

1 paragraph (2), by entering into partnerships with
2 the following:

3 “(A) Nonprofit and other private organiza-
4 tions, including faith-based and community-
5 based organizations, that provide recidivism re-
6 duction programming, on a paid or volunteer
7 basis.

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

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

13 “(i) deliver occupational and voca-
14 tional training and certifications in Bureau
15 of Prisons facilities;

16 “(ii) provide equipment to facilitate
17 occupational and vocational training or em-
18 ployment opportunities for prisoners;

19 “(iii) employ prisoners; or

20 “(iv) assist prisoners in prerelease
21 custody or supervised release in finding
22 employment.

23 “(D) Industry-sponsored organizations
24 that deliver workforce development and training

1 that lead to recognized certification and employ-
2 ment.

3 “(4) ASSIGNMENTS.—In assigning prisoners to
4 recidivism reduction programming and productive
5 activities, the Director of the Bureau of Prisons
6 shall use the Post-Sentencing Risk and Needs As-
7 sessment System described in section 3621A and
8 shall ensure that—

9 “(A) to the extent practicable, prisoners
10 are separated from prisoners of other risk clas-
11 sifications in accordance with best practices for
12 effective recidivism reduction;

13 “(B) a prisoner who has been classified as
14 low risk and without need for recidivism reduc-
15 tion programming shall participate in and suc-
16 cessfully complete productive activities, includ-
17 ing prison jobs, in order to maintain a low-risk
18 classification;

19 “(C) a prisoner who has successfully com-
20 pleted all recidivism reduction programming to
21 which the prisoner was assigned shall partici-
22 pate in productive activities, including a prison
23 job; and

24 “(D) to the extent practicable, each eligible
25 prisoner shall participate in and successfully

1 complete recidivism reduction programming or
2 productive activities, including prison jobs,
3 throughout the entire term of incarceration of
4 the prisoner.

5 “(5) MENTORING SERVICES.—Any person who
6 provided mentoring services to a prisoner while the
7 prisoner was in a penal or correctional facility of the
8 Bureau of Prisons shall be permitted to continue
9 such services after the prisoner has been transferred
10 into prerelease custody, unless the person in charge
11 of the penal or correctional facility of the Bureau of
12 Prisons demonstrates, in a written document sub-
13 mitted to the person, that such services would be a
14 significant security risk to the prisoner, persons who
15 provide such services, or any other person.

16 “(6) RECIDIVISM REDUCTION PROGRAM INCEN-
17 TIVES AND REWARDS.—Prisoners who have success-
18 fully completed recidivism reduction programs and
19 productive activities shall be eligible for the fol-
20 lowing:

21 “(A) TIME CREDITS.—

22 “(i) IN GENERAL.—Subject to clauses
23 (ii) and (iii), a prisoner who has success-
24 fully completed a recidivism reduction pro-
25 gram or productive activity that has been

1 certified under paragraph (2)(B) shall re-
2 ceive time credits of 5 days for each period
3 of 30 days of successful completion of such
4 program or activity. A prisoner who is
5 classified as low risk shall receive addi-
6 tional time credits of 5 days for each pe-
7 riod of 30 days of successful completion of
8 such program or activity.

9 “(ii) AVAILABILITY.—A prisoner may
10 not receive time credits under this sub-
11 paragraph for successfully completing a re-
12 cidivism reduction program or productive
13 activity—

14 “(I) before the date of enactment
15 of this subsection; or

16 “(II) during official detention be-
17 fore the date on which the prisoner’s
18 sentence commences under section
19 3585(a).

20 “(iii) EXCLUSIONS.—No credit shall
21 be awarded under this subparagraph to a
22 prisoner serving a sentence for a second or
23 subsequent conviction for a Federal offense
24 imposed after the date on which the pris-
25 oner’s first such conviction became final,

1 which shall not include any offense under
2 section 1152 or section 1153 for which the
3 prisoner was sentenced to less than 13
4 months. No credit shall be awarded under
5 this subparagraph to a prisoner with 13 or
6 more criminal history points, as deter-
7 mined under the sentencing guidelines, at
8 the time of sentencing, unless the court de-
9 termines in writing at sentencing that the
10 defendant's criminal history category sub-
11 stantially overrepresents the seriousness of
12 the defendant's criminal history or the
13 likelihood that the defendant will commit
14 other crimes and exercises its authority to
15 lower the defendant's criminal history cat-
16 egory. No credit shall be awarded under
17 this subparagraph to any prisoner serving
18 a sentence of imprisonment for conviction
19 for any of the following offenses:

20 “(I) A Federal crime of ter-
21 rorism, as defined under section
22 2332b(g)(5).

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

1 “(III) A Federal sex offense, as
2 described in section 111 of the Sex
3 Offender Registration and Notifica-
4 tion Act (42 U.S.C. 16911).

5 “(IV) Engaging in a continuing
6 criminal enterprise, as defined in sec-
7 tion 408 of the Controlled Substances
8 Act (21 U.S.C. 848).

9 “(V) A Federal fraud offense for
10 which the prisoner received a sentence
11 of imprisonment of more than 15
12 years.

13 “(VI) A Federal crime involving
14 child exploitation, as defined in sec-
15 tion 2 of the PROTECT Our Children
16 Act of 2008 (42 U.S.C. 17601).

17 “(VII) A violation of—

18 “(aa) chapter 11 (relating to
19 bribery, graft, and conflicts of in-
20 terest);

21 “(bb) chapter 29 (relating to
22 elections and political activities);

23 “(cc) section 1028A, 1031,
24 or 1040 (relating to fraud);

1 “(dd) chapter 63 involving a
2 scheme or artifice to deprive an-
3 other of the intangible right of
4 honest services;

5 “(ee) chapter 73 (relating to
6 obstruction of justice);

7 “(ff) chapter 95 or 96 (re-
8 lating to racketeering and rack-
9 eteer influenced and corrupt or-
10 ganizations); or

11 “(gg) chapter 110 (relating
12 to sexual exploitation and other
13 abuse of children).

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

23 “(B) OTHER INCENTIVES.—The Bureau of
24 Prisons shall develop policies to provide appro-
25 priate incentives for successful completion of re-

1 recidivism reduction programming and productive
2 activities, other than time credit pursuant to
3 subparagraph (A), including incentives for pris-
4 oners who are precluded from earning credit
5 under subparagraph (A)(iii). Such incentives
6 may include additional telephone or visitation
7 privileges for use with family, close friends,
8 mentors, and religious leaders.

9 “(C) PENALTIES.—The Bureau of Prisons
10 may reduce rewards a prisoner has previously
11 earned under subparagraph (A) for prisoners
12 who violate the rules of the penal or correc-
13 tional facility in which the prisoner is impris-
14 oned, a recidivism reduction program, or a pro-
15 ductive activity.

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

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

3 “(A) shall be considered to have success-
4 fully completed a recidivism reduction program
5 or productive activity, if the Bureau of Prisons
6 determines that the prisoner—

7 “(i) regularly attended and partici-
8 pated in the recidivism reduction program
9 or productive activity;

10 “(ii) regularly completed assignments
11 or tasks in a manner that allowed the pris-
12 oner to realize the criminogenic benefits of
13 the recidivism reduction program or pro-
14 ductive activity;

15 “(iii) did not regularly engage in dis-
16 ruptive behavior that seriously undermined
17 the administration of the recidivism reduc-
18 tion program or productive activity; and

19 “(iv) satisfied the requirements of
20 clauses (i) through (iii) for a time period
21 that is not less than 30 days and allowed
22 the prisoner to realize the criminogenic
23 benefits of the recidivism reduction pro-
24 gram or productive activity; and

1 “(B) PRODUCTIVE ACTIVITY.—The term
2 ‘productive activity’—

3 “(i) means a group or individual ac-
4 tivity, including holding a job as part of a
5 prison work program, that is designed to
6 allow prisoners classified as having a lower
7 risk of recidivism to maintain such classi-
8 fication, when offered to such prisoners;
9 and

10 “(ii) may include the delivery of the
11 activities described in subparagraph
12 (C)(i)(II) to other prisoners.

13 “(C) RECIDIVISM REDUCTION PROGRAM.—
14 The term ‘recidivism reduction program’
15 means—

16 “(i) a group or individual activity
17 that—

18 “(I) has been certified to reduce
19 recidivism or promote successful re-
20 entry; and

21 “(II) may include—

22 “(aa) classes on social learn-
23 ing and life skills;

24 “(bb) classes on morals or
25 ethics;

1 “(cc) academic classes;
2 “(dd) cognitive behavioral
3 treatment;
4 “(ee) mentoring;
5 “(ff) occupational and voca-
6 tional training;
7 “(gg) faith-based classes or
8 services;
9 “(hh) domestic violence edu-
10 cation and deterrence program-
11 ming;
12 “(ii) victim-impact classes or
13 other restorative justice pro-
14 grams;
15 “(jj) industry-sponsored
16 workforce development, edu-
17 cation, or training; and
18 “(kk) a prison job; and
19 “(ii) shall include—
20 “(I) a productive activity; and
21 “(II) recovery programming.
22 “(D) RECOVERY PROGRAMMING.—The
23 term ‘recovery programming’ means a course of
24 instruction or activities, other than a course de-
25 scribed in subsection (e), that has been dem-

1 onstrated to reduce drug or alcohol abuse or de-
2 pendence among participants, or to promote re-
3 covery among individuals who have previously
4 abused alcohol or drugs, to include appropriate
5 medication-assisted treatment.”.

6 (c) NO CONSIDERATION OF EARNED TIME CREDIT
7 ELIGIBILITY DURING SENTENCING.—

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

11 (A) by redesignating subsections (b)
12 through (j) as subsections (c) through (k), re-
13 spectively;

14 (B) in subsection (e)(3), as so redesign-
15 ated, by striking “subsection (c)” and insert-
16 ing “subsection (d)”; and

17 (C) by inserting after subsection (a) the
18 following:

19 “(b) In imposing a sentence, the court shall not con-
20 sider the defendant’s eligibility or potential eligibility for
21 credit under section 3621(e), 3621(h), or 3624(b) or any
22 similar provision of law, but shall not be prohibited from
23 informing the defendant of the existence of such credits
24 or related programs.”.

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

4 (A) in subsection (e)(3)—

5 (i) in subparagraph (A), by striking
6 “section 3553(c)” and inserting “section
7 3553(d)”;

8 (ii) in subparagraph (B)(ii), by strik-
9 ing “section 3553(b)” and inserting “sec-
10 tion 3553(c)”;

11 (iii) in subparagraph (C), by striking
12 “section 3553(c)” and inserting “section
13 3553(d)”;

14 (B) in subsection (g)(2), by striking “sec-
15 tion 3553(c)” and inserting “section 3553(d)”;
16 and

17 (C) in subsection (j)(1)(B), by striking
18 “section 3553(b)” and inserting “section
19 3553(c)”.

20 **SEC. 203. POST-SENTENCING RISK AND NEEDS ASSESS-**
21 **MENT SYSTEM.**

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

1 **“§ 3621A. Post-sentencing risk and needs assessment**
2 **system**

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

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

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

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

17 “(4) assign each prisoner to appropriate recidi-
18 vism reduction programs or productive activities
19 based on the prisoner’s risk level and the specific
20 criminogenic needs of the prisoner, and in accord-
21 ance with section 3621(h)(4);

22 “(5) reassess and update the recidivism risk
23 level and programmatic needs of each prisoner pur-
24 suant to the schedule set forth in subsection (c)(2),
25 and assess changes in the prisoner’s recidivism risk
26 within a particular risk level; and

1 “(6) provide information on best practices con-
2 cerning the tailoring of recidivism reduction pro-
3 grams to the specific criminogenic needs of each
4 prisoner so as to effectively lower the prisoner’s risk
5 of recidivating.

6 “(b) DEVELOPMENT OF SYSTEM.—

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

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

12 “(B) ensure that the Assessment System
13 measures indicators of progress and improve-
14 ment, and of regression, including newly ac-
15 quired skills, attitude, and behavior changes
16 over time, through meaningful consideration of
17 dynamic risk factors, such that—

18 “(i) all prisoners at each risk level
19 other than low risk have a meaningful op-
20 portunity to progress to a lower risk classi-
21 fication during the period of the incarceration
22 of the prisoner through changes in
23 dynamic risk factors; and

24 “(ii) all prisoners on prerelease cus-
25 tody, other than prisoners classified as low

1 risk, have a meaningful opportunity to
2 progress to a lower risk classification dur-
3 ing such custody through changes in dy-
4 namic risk factors;

5 “(C) ensure that the Assessment System is
6 adjusted on a regular basis, but not less fre-
7 quently than every 3 years, to take account of
8 the best statistical evidence of effectiveness in
9 reducing recidivism rates; and

10 “(D) ensure that the Assessment System
11 does not result in unwarranted disparities, in-
12 cluding by—

13 “(i) regularly evaluating rates of re-
14 cidivism among similarly classified pris-
15 oners to identify any unwarranted dispari-
16 ties in such rates, including disparities
17 among similarly classified prisoners of dif-
18 ferent racial groups; and

19 “(ii) adjusting the Assessment System
20 to reduce such disparities to the greatest
21 extent possible.

22 “(2) RISK AND NEEDS ASSESSMENT TOOLS.—
23 In carrying out this subsection, the Attorney Gen-
24 eral shall—

1 “(A) develop a suitable intake assessment
2 tool to perform the initial assessments and de-
3 terminations described in subsection (a)(1), and
4 to make the assignments described in para-
5 graphs (3) and (4) of subsection (a);

6 “(B) develop a suitable reassessment tool
7 to perform the reassessments and updates de-
8 scribed in subsection (a)(5); and

9 “(C) develop a suitable tool to assess the
10 recidivism risk level of prisoners in prerelease
11 custody.

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

17 “(4) USE OF PRESENTENCE REPORT.—In car-
18 rying out this subsection, the Attorney General shall
19 coordinate with the United States Probation and
20 Pretrial Services to ensure that the findings of the
21 Presentence Report of each offender are available
22 and considered in the Assessment System.

23 “(5) VALIDATION.—In carrying out this sub-
24 section, the Attorney General shall statistically vali-
25 date the risk and needs assessment tools on the Fed-

1 eral prison population, or ensure that the tools have
2 been so validated. To the extent such validation can-
3 not be completed with the time period specified in
4 subsection (a), the Attorney General shall ensure
5 that such validation is completed as soon as is prac-
6 ticable.

7 “(6) RELATIONSHIP WITH EXISTING CLASSI-
8 FICATION SYSTEMS.—The Bureau of Prisons may
9 incorporate its existing Inmate Classification System
10 into the Assessment System if the Assessment Sys-
11 tem assesses the risk level and criminogenic needs of
12 each prisoner and determines the appropriate secu-
13 rity level institution for each prisoner. Before the de-
14 velopment of the Assessment System, the Bureau of
15 Prisons may use the existing Inmate Classification
16 System, or a pre-existing risk and needs assessment
17 tool that can be used to classify prisoners consistent
18 with subsection (a)(1), or can be reasonably adapted
19 for such purpose, for purposes of this section, sec-
20 tion 3621(h), and section 3624(c).

21 “(c) RISK ASSESSMENT.—

22 “(1) INITIAL ASSESSMENTS.—Not later than 30
23 months after the date on which the Attorney Gen-
24 eral develops the Assessment System, the Bureau of
25 Prisons shall determine the risk level and

1 criminogenic needs of each prisoner using the As-
2 sessment System.

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

6 “(A) not less frequently than once each
7 year for any prisoner whose anticipated release
8 date is within 3 years;

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

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

14 “(d) ASSIGNMENT OF RECIDIVISM REDUCTION PRO-
15 GRAMS OR PRODUCTIVE ACTIVITIES.—The Assessment
16 System shall provide guidance on the kind and amount
17 of recidivism reduction programming or productive activi-
18 ties appropriate for each prisoner.

19 “(e) BUREAU OF PRISONS TRAINING.—The Attorney
20 General shall develop training protocols and programs for
21 Bureau of Prisons officials and employees responsible for
22 administering the Assessment System. Such training pro-
23 tocols shall include a requirement that personnel of the
24 Bureau of Prisons demonstrate competence in using the

1 methodology and procedure developed under this section
2 on a regular basis.

3 “(f) INFORMATION FROM PRESENTENCE REPORT.—
4 The Attorney General shall ensure that the Bureau of
5 Prisons uses relevant information from the Presentence
6 Report of each offenders when conducting an assessment
7 under this section.

8 “(g) QUALITY ASSURANCE.—In order to ensure that
9 the Bureau of Prisons is using the Assessment System in
10 an appropriate and consistent manner, the Attorney Gen-
11 eral shall monitor and assess the use of the Assessment
12 System and shall conduct periodic audits of the use of the
13 Assessment System at facilities of the Bureau of Prisons.

14 “(h) DETERMINATIONS AND CLASSIFICATIONS
15 UNREVIEWABLE.—Subject to any constitutional limita-
16 tions, there shall be no right of review, right of appeal,
17 cognizable property interest, or cause of action, either ad-
18 ministrative or judicial, arising from any determination or
19 classification made by any Federal agency or employee
20 while implementing or administering the Assessment Sys-
21 tem, or any rules or regulations promulgated under this
22 section.

23 “(i) DEFINITIONS.—In this section:

24 “(1) DYNAMIC RISK FACTOR.—The term ‘dy-
25 namic risk factor’ means a characteristic or at-

1 tribute that has been shown to be relevant to assess-
2 ing risk of recidivism and that can be modified
3 based on a prisoner’s actions, behaviors, or atti-
4 tudes, including through completion of appropriate
5 programming or other means, in a prison setting.

6 “(2) RECIDIVISM RISK.—The term ‘recidivism
7 risk’ means the likelihood that a prisoner will com-
8 mit additional crimes for which the prisoner could be
9 prosecuted in a Federal, State, or local court in the
10 United States.

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

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

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

20 **SEC. 204. PRERELEASE CUSTODY.**

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

23 (1) in paragraph (1), by striking the period at
24 the end of the second sentence and inserting “or
25 home confinement, subject to the limitation that no

1 prisoner may serve more than 10 percent of the pris-
2 oner's imposed sentence in home confinement pursu-
3 ant to this paragraph.”;

4 (2) by striking paragraphs (2) and (3) and in-
5 serting the following:

6 “(2) CREDIT FOR RECIDIVISM REDUCTION.—In
7 addition to any time spent in prerelease custody pur-
8 suant to paragraph (1), a prisoner shall spend an
9 additional portion of the final months of the pris-
10 oner's sentence, equivalent to the amount of time
11 credit the prisoner has earned pursuant to section
12 3621(h)(6)(A), in prerelease custody, if—

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

20 “(B) for a prisoner classified as moderate
21 risk, the prisoner's most recent risk and needs
22 assessment reflects that the prisoner's risk of
23 recidivism has declined during the period of the
24 prisoner's incarceration.

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

7 (3) by redesignating paragraphs (4) through
8 (6) as paragraphs (9) through (11), respectively;

9 (4) by inserting the following after paragraph
10 (3):

11 “(4) HOME CONFINEMENT.—

12 “(A) IN GENERAL.—Upon placement in
13 home confinement pursuant to paragraph (2), a
14 prisoner shall—

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

18 “(ii) remain in the prisoner’s resi-
19 dence, with the exception of the following
20 activities, subject to approval by the Direc-
21 tor of the Bureau of Prisons—

22 “(I) participation in a job, job-
23 seeking activities, or job-related activi-
24 ties, including an apprenticeship;

1 “(II) participation in recidivism
2 reduction programming or productive
3 activities assigned by the Post-Sen-
4 tencing Risk and Needs Assessment
5 System, or similar activities approved
6 in advance by the Director of the Bu-
7 reau of Prisons;

8 “(III) participation in community
9 service;

10 “(IV) crime victim restoration ac-
11 tivities;

12 “(V) medical treatment; or

13 “(VI) religious activities; and

14 “(iii) comply with such other condi-
15 tions as the Director of the Bureau of
16 Prisons deems appropriate.

17 “(B) ALTERNATIVE MEANS OF MONI-
18 TORING.—If compliance with subparagraph
19 (A)(i) is infeasible due to technical limitations
20 or religious considerations, the Director of the
21 Bureau of Prisons may employ alternative
22 means of monitoring that are determined to be
23 as effective or more effective than electronic
24 monitoring.

1 “(C) MODIFICATIONS.—The Director of
2 the Bureau of Prisons may modify the condi-
3 tions of the prisoner’s home confinement for
4 compelling reasons, if the prisoner’s record
5 demonstrates exemplary compliance with such
6 conditions.

7 “(5) COMMUNITY SUPERVISION.—

8 “(A) TIME CREDIT LESS THAN 36
9 MONTHS.—Any prisoner described in subpara-
10 graph (D) who has earned time credit of less
11 than 36 months pursuant to section
12 3621(h)(6)(A) shall be eligible to serve no more
13 than one-half of the amount of such credit on
14 community supervision, if the prisoner satisfies
15 the conditions set forth in subparagraph (C).

16 “(B) TIME CREDIT OF 36 MONTHS OR
17 MORE.—Any prisoner described in subpara-
18 graph (D) who has earned time credit of 36
19 months or more pursuant to section
20 3621(h)(6)(A) shall be eligible to serve the
21 amount of such credit exceeding 18 months on
22 community supervision, if the prisoner satisfies
23 the conditions set forth in subparagraph (C).

24 “(C) CONDITIONS OF COMMUNITY SUPER-
25 VISION.—A prisoner placed on community su-

1 pervision shall be subject to such conditions as
2 the Director of the Bureau of Prisons deems
3 appropriate. A prisoner on community super-
4 vision may remain on community supervision
5 until the conclusion of the prisoner's sentence
6 of incarceration if the prisoner—

7 “(i) complies with all conditions of
8 prerelease custody;

9 “(ii) remains current on any financial
10 obligations imposed as part of the pris-
11 oner's sentence, including payments of
12 court-ordered restitution arising from the
13 offense of conviction; and

14 “(iii) refrains from committing any
15 State, local, or Federal offense.

16 “(D) COVERED PRISONERS.—A prisoner
17 described in this subparagraph is a prisoner
18 who—

19 “(i) is classified as low risk by the
20 Post-Sentencing Risk and Needs Assess-
21 ment System in the assessment conducted
22 for purposes of paragraph (2); or

23 “(ii) is subsequently classified as low
24 risk by the Post-Sentencing Risk and
25 Needs Assessment System.

1 “(6) VIOLATIONS.—If a prisoner violates a con-
2 dition of the prisoner’s prerelease custody, the Di-
3 rector of the Bureau of Prisons may revoke the pris-
4 oner’s prerelease custody and require the prisoner to
5 serve the remainder of the prisoner’s term of incar-
6 ceration, or any portion thereof, in prison, or impose
7 additional conditions on the prisoner’s prerelease
8 custody as the Director of the Bureau of Prisons
9 deems appropriate. If the violation is nontechnical in
10 nature, the Director of the Bureau of Prisons shall
11 revoke the prisoner’s prerelease custody.

12 “(7) CREDIT FOR PRERELEASE CUSTODY.—
13 Upon completion of a prisoner’s sentence, any term
14 of supervised release imposed on the prisoner shall
15 be reduced by the amount of time the prisoner
16 served in prerelease custody pursuant to paragraph
17 (2).

18 “(8) AGREEMENTS WITH UNITED STATES PRO-
19 BATION AND PRETRIAL SERVICES.—The Director of
20 the Bureau of Prisons shall, to the greatest extent
21 practicable, enter into agreements with the United
22 States Probation and Pretrial Services to supervise
23 prisoners placed in home confinement or community
24 supervision under this subsection. Such agreements
25 shall authorize United States Probation and Pretrial

1 Services to exercise the authority granted to the Di-
2 rector of the Bureau of Prisons pursuant to para-
3 graphs (4), (5), and (12). Such agreements shall
4 take into account the resource requirements of
5 United States Probation and Pretrial Services as a
6 result of the transfer of Bureau of Prisons inmates
7 to prerelease custody and shall provide for the trans-
8 fer of monetary sums necessary to comply with such
9 requirements. United States Probation and Pretrial
10 Services shall, to the greatest extent practicable,
11 offer assistance to any prisoner not under its super-
12 vision during prerelease custody under this sub-
13 section.”; and

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

15 “(12) DETERMINATION OF APPROPRIATE CON-
16 DITIONS FOR PRERELEASE CUSTODY.—In deter-
17 mining appropriate conditions for prerelease custody
18 pursuant to this subsection, and in accordance with
19 paragraph (5), the Director of the Bureau of Pris-
20 ons shall, to the extent practicable, subject prisoners
21 who demonstrate continued compliance with the re-
22 quirements of such prerelease custody to increas-
23 ingly less restrictive conditions, so as to most effec-
24 tively prepare such prisoners for reentry. No pris-
25 oner shall be transferred to community supervision

1 unless the length of the prisoner's eligibility for com-
2 munity supervision pursuant to paragraph (5) is
3 equivalent to or greater than the length of the pris-
4 oner's remaining period of prerelease custody.

5 “(13) ALIENS SUBJECT TO DEPORTATION.—If
6 the prisoner is an alien whose deportation was or-
7 dered as a condition of supervised release or who is
8 subject to a detainer filed by Immigration and Cus-
9 toms Enforcement for the purposes of determining
10 the alien's deportability, the Director of the Bureau
11 of Prisons shall, upon the prisoner's transfer to
12 prerelease custody pursuant to paragraphs (1) and
13 (2), deliver the prisoner to United States Immigra-
14 tion and Customs Enforcement for the purpose of
15 conducting proceedings relating to the alien's depor-
16 tation.

17 “(14) NOTICE OF TRANSFER TO PRERELEASE
18 CUSTODY.—

19 “(A) IN GENERAL.—The Director of the
20 Bureau of Prisons may not transfer a prisoner
21 to prerelease custody pursuant to paragraph (2)
22 if the prisoner has been sentenced to a term of
23 incarceration of more than 3 years, unless the
24 Director of the Bureau of Prisons provides
25 prior notice to the sentencing court and the

1 United States Attorney's Office for the district
2 in which the prisoner was sentenced.

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

7 “(C) CONTENTS OF NOTICE.—The notice
8 required under subparagraph (A) shall include
9 the following information:

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

12 “(ii) The anticipated date of the pris-
13 oner's transfer.

14 “(iii) The nature of the prisoner's
15 planned prerelease custody.

16 “(iv) The prisoner's behavioral record.

17 “(v) The most recent risk assessment
18 of the prisoner.

19 “(D) HEARING.—

20 “(i) IN GENERAL.—On motion of the
21 Government, the sentencing court may
22 conduct a hearing on the prisoner's trans-
23 fer to prerelease custody.

24 “(ii) PRISONER'S PRESENCE.—The
25 prisoner shall have the right to be present

1 at a hearing described in clause (i), unless
2 the prisoner waives such right. The re-
3 quirement under this clause may be satis-
4 fied by the defendant appearing by video
5 teleconference.

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

8 “(I) shall set forth the basis for
9 the Government’s request that the
10 prisoner’s transfer be denied or modi-
11 fied pursuant to subparagraph (E);
12 and

13 “(II) shall not require the Court
14 to conduct a hearing described in
15 clause (i).

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

1 “(E) DETERMINATION OF THE COURT.—
2 The court may deny the transfer of the prisoner
3 to prerelease custody or modify the terms of
4 such transfer, if, after conducting a hearing
5 pursuant to subparagraph (D), the court finds
6 in writing, by a preponderance of the evidence,
7 that the transfer of the prisoner is inconsistent
8 with the factors specified in paragraphs (2),
9 (6), and (7) of section 3553(a).”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect 1 year after the date of enact-
12 ment of this Act.

13 **SEC. 205. REPORTS.**

14 (a) ANNUAL REPORTS.—

15 (1) REPORTS.—Not later than 1 year after the
16 date of enactment of this Act, and every year there-
17 after, the Attorney General, in coordination with the
18 Comptroller General of the United States, shall sub-
19 mit to the appropriate committees of Congress a re-
20 port that contains the following:

21 (A) A summary of the activities and ac-
22 complishments of the Attorney General in car-
23 rying out this title and the amendments made
24 by this title.

1 (B) An assessment of the status and use
2 of the Post-Sentencing Risk and Needs Assess-
3 ment System by the Bureau of Prisons, includ-
4 ing the number of prisoners classified at each
5 risk level under the Post-Sentencing Risk and
6 Needs Assessment System at each facility of
7 the Bureau of Prisons.

8 (C) A summary and assessment of the
9 types and effectiveness of the recidivism reduc-
10 tion programs and productive activities in facili-
11 ties operated by the Bureau of Prisons, includ-
12 ing—

13 (i) evidence about which programs
14 and activities have been shown to reduce
15 recidivism;

16 (ii) the capacity of each program and
17 activity at each facility, including the num-
18 ber of prisoners along with the risk level of
19 each prisoner enrolled in each program and
20 activity; and

21 (iii) identification of any problems or
22 shortages in capacity of such programs
23 and activities, and how these should be
24 remedied.

1 (D) An assessment of budgetary savings
2 resulting from this title and the amendments
3 made by this title, to include—

4 (i) a summary of the amount of sav-
5 ings resulting from the transfer of pris-
6 oners into prerelease custody under this
7 title and the amendments made by this
8 title, including savings resulting from the
9 avoidance or deferral of future construc-
10 tion, acquisition, or operations costs;

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

19 (iii) a strategy to reinvest such sav-
20 ings into other Federal, State, and local
21 law enforcement activities and expansions
22 of recidivism reduction programs and pro-
23 ductive activities in the Bureau of Prisons.

24 (2) REINVESTMENT OF SAVINGS TO FUND PUB-
25 LIC SAFETY PROGRAMMING.—

1 (A) IN GENERAL.—Beginning in the first
2 fiscal year after the first report is submitted
3 under paragraph (1), and every fiscal year
4 thereafter, the Attorney General shall—

5 (i) determine the covered amount for
6 the previous fiscal year in accordance with
7 subparagraph (B); and

8 (ii) use an amount of funds appro-
9 priated to the Department of Justice that
10 is not less than 90 percent of the covered
11 amount for the purposes described in sub-
12 paragraph (C).

13 (B) COVERED AMOUNT.—For purposes of
14 this paragraph, the term “covered amount”
15 means, using the most recent report submitted
16 under paragraph (1), the amount equal to the
17 sum of the amount described in paragraph
18 (1)(D)(i) for the fiscal year and the amount de-
19 scribed in paragraph (1)(D)(ii) for the fiscal
20 year.

21 (C) USE OF FUNDS.—The funds described
22 in subparagraph (A)(ii) shall be used, con-
23 sistent with paragraph (1)(D)(iii), to achieve
24 each of the following objectives:

1 (i) Ensure that, not later than 6 years
2 after the date of enactment of this Act, re-
3 cidivism reduction programs or productive
4 activities are available to all eligible pris-
5 oners.

6 (ii) Ensure compliance with the re-
7 source needs of United States Probation
8 and Pretrial Services resulting from an
9 agreement under section 3624(c)(8) of title
10 18, United States Code, as added by this
11 title.

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

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

24 (1) a strategy to expand the availability of such
25 programs without reducing job opportunities for

1 workers in the United States who are not in the cus-
2 tody of the Bureau of Prisons;

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

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

13 (c) REPORTING ON RECIDIVISM RATES.—

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

22 (2) CONTENTS.—The report required under
23 paragraph (1) shall contain information on rates of
24 recidivism among former Federal prisoners, includ-

1 ing information on rates of recidivism among former
2 Federal prisoners based on the following criteria:

3 (A) Primary offense charged.

4 (B) Length of sentence imposed and
5 served.

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

8 (D) Recidivism reduction programming
9 that the prisoner successfully completed, if any.

10 (E) The prisoner's assessed risk of recidi-
11 vism.

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

17 (d) REPORTING ON EXCLUDED PRISONERS.—Not
18 later than 8 years after the date of enactment of this Act,
19 the Attorney General shall submit to the appropriate com-
20 mittees of Congress a report on the effectiveness of recidi-
21 vism reduction programs and productive activities offered
22 to prisoners described in section 3621(h)(6)(A)(iii) of title
23 18, United States Code, as added by this title, as well as
24 those ineligible for credit toward prerelease custody under
25 section 3624(c)(2) of title 18, United States Code, as

1 added by this title, which shall review the effectiveness of
2 different categories of incentives in reducing recidivism.

3 (e) DEFINITION.—The term “appropriate committees
4 of Congress” means—

5 (1) the Committee on the Judiciary and the
6 Subcommittee on Commerce, Justice, Science, and
7 Related Agencies of the Committee on Appropria-
8 tions of the Senate; and

9 (2) the Committee on the Judiciary and the
10 Subcommittee on Commerce, Justice, Science, and
11 Related Agencies of the Committee on Appropria-
12 tions of the House of Representatives.

13 **SEC. 206. ADDITIONAL TOOLS TO PROMOTE RECOVERY**
14 **AND PREVENT DRUG AND ALCOHOL ABUSE**
15 **AND DEPENDENCE.**

16 (a) REENTRY AND RECOVERY PLANNING.—

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

19 (A) by redesignating subsections (b), (c),
20 and (d) as subsections (c), (d), and (e), respec-
21 tively;

22 (B) by inserting after subsection (a) the
23 following:

24 “(b) REENTRY AND RECOVERY PLANNING.—

1 “(iii) assist the defendant preparing
2 for reentry into the community.

3 “(2) EXCEPTIONS.—The information described
4 in paragraph (1)(C)(iii) shall not be required to be
5 included under paragraph (1), in the discretion of
6 the Probation Officer, if the applicable sentencing
7 range under the sentencing guidelines, as deter-
8 mined by the probation officer, includes a sentence
9 of life imprisonment or a sentence of probation.”;

10 (C) in subsection (c), as redesignated, in
11 the first sentence, by striking “subsection (a) or
12 (c)” and inserting “subsection (a) or (d)”; and

13 (D) in subsection (d), as redesignated, by
14 striking “subsection (a) or (b)” and inserting
15 “subsection (a) or (c)”.

16 (2) TECHNICAL AND CONFORMING AMEND-
17 MENT.—Section 3672 of title 18, United States
18 Code, is amended in the eighth undesignated para-
19 graph by striking “subsection (b) or (c)” and insert-
20 ing “subsection (c) or (d)”.

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

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

13 “(D) OTHER CREDITS.—The Director of
14 the Bureau of Prisons may, in the Director’s
15 discretion, reduce the credit awarded under
16 subsection (h)(6)(A) to a prisoner who receives
17 a reduction under subparagraph (B), but such
18 reduction may not exceed one-half the amount
19 of the reduction awarded to the prisoner under
20 subparagraph (B).”.

21 (c) SUPERVISED RELEASE PILOT PROGRAM TO RE-
22 DUCE RECIDIVISM AND IMPROVE RECOVERY FROM ALCO-
23 HOL AND DRUG ABUSE.—

24 (1) IN GENERAL.—Not later than 2 years after
25 the date of enactment of this Act, the Administrative

1 Office of the United States Courts shall establish a
2 recidivism reduction and recovery enhancement pilot
3 program, premised on high-intensity supervision and
4 the use of swift, predictable, and graduated sanc-
5 tions for noncompliance with program rules, in Fed-
6 eral judicial districts selected by the Administrative
7 Office of the United States Courts in consultation
8 with the Attorney General.

9 (2) REQUIREMENTS OF PROGRAM.—Participa-
10 tion in the pilot program required under paragraph
11 (1) shall be subject to the following requirements:

12 (A) Upon entry into the pilot program, the
13 court shall notify program participants of the
14 rules of the program and consequences for vio-
15 lating such rules, including the penalties to be
16 imposed as a result of such violations pursuant
17 to subparagraph (E).

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

21 (C) In the event that a probation officer
22 determines that a participant has violated a
23 term of supervised release, the officer shall no-
24 tify the court within 24 hours of such deter-
25 mination, absent good cause.

1 (D) As soon as is practicable, and in no
2 case more than 1 week after the violation was
3 reported by the probation officer, absent good
4 cause, the court shall conduct a hearing on the
5 alleged violation.

6 (E) If the court determines that a program
7 participant has violated a term of supervised re-
8 lease, it shall impose an appropriate sanction,
9 which may include the following, if appropriate:

10 (i) Modification of the terms of such
11 participant's supervised release, which may
12 include imposition of a period of home con-
13 finement.

14 (ii) Referral to appropriate substance
15 abuse treatment.

16 (iii) Revocation of the defendant's su-
17 pervised release and the imposition of a
18 sentence of incarceration that is no longer
19 than necessary to punish the participant
20 for such violation and deter the participant
21 from committing future violations.

22 (iv) For participants who habitually
23 fail to abide by program rules or pose a
24 threat to public safety, termination from
25 the program.

1 (3) STATUS OF PARTICIPANT IF INCARCER-
2 ATED.—

3 (A) IN GENERAL.—In the event that a pro-
4 gram participant is sentenced to incarceration
5 as described in paragraph (2)(E)(iii), the par-
6 ticipant shall remain in the program upon re-
7 lease from incarceration unless terminated from
8 the program in accordance with paragraph
9 (2)(E)(iv).

10 (B) POLICIES FOR MAINTAINING EMPLOY-
11 MENT.—The Bureau of Prisons, in consultation
12 with the Chief Probation Officers of the Federal
13 judicial districts selected for participation in the
14 pilot program required under paragraph (1),
15 shall develop policies to enable program partici-
16 pants sentenced to terms of incarceration as de-
17 scribed in paragraph (2)(E) to, where prac-
18 ticable, serve the terms of incarceration while
19 maintaining employment, including allowing the
20 terms of incarceration to be served on week-
21 ends.

22 (4) ADVISORY SENTENCING POLICIES.—

23 (A) IN GENERAL.—The United States Sen-
24 tencing Commission, in consultation with the
25 Chief Probation Officers, the United States At-

1 torneys, Federal Defenders, and Chief Judges
2 of the districts selected for participation in the
3 pilot program required under paragraph (1),
4 shall establish advisory sentencing policies to be
5 used by the district courts in imposing sen-
6 tences of incarceration in accordance with para-
7 graph (2)(E).

8 (B) REQUIREMENT.—The advisory sen-
9 tencing policies established under subparagraph
10 (A) shall be consistent with the stated goal of
11 the pilot program to impose predictable and
12 graduated sentences that are no longer than
13 necessary for violations of program rules.

14 (5) DURATION OF PROGRAM.—The pilot pro-
15 gram required under paragraph (1) shall continue
16 for not less than 5 years and may be extended for
17 not more than 5 years by the Administrative Office
18 of the United States Courts.

19 (6) ASSESSMENT OF PROGRAM OUTCOMES AND
20 REPORT TO CONGRESS.—

21 (A) IN GENERAL.—Not later than 6 years
22 after the date of enactment of this Act, the Ad-
23 ministrative Office of the United States Courts
24 shall conduct an evaluation of the pilot program

1 and submit to Congress a report on the results
2 of the evaluation.

3 (B) CONTENTS.—The report required
4 under subparagraph (A) shall include—

5 (i) the rates of substance abuse
6 among program participants;

7 (ii) the rates of violations of the terms
8 of supervised release by program partici-
9 pants, and sanctions imposed;

10 (iii) information about employment of
11 program participants;

12 (iv) a comparison of outcomes among
13 program participants with outcomes among
14 similarly situated individuals under the su-
15 pervision of United States Probation and
16 Pretrial Services not participating in the
17 program; and

18 (v) an assessment of the effectiveness
19 of each of the relevant features of the pro-
20 gram.

21 **SEC. 207. ERIC WILLIAMS CORRECTIONAL OFFICER PRO-**
22 **TECTION ACT.**

23 (a) IN GENERAL.—Chapter 303 of title 18, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

1 **“§ 4049. Officers and employees of the Bureau of Pris-**
2 **ons authorized to carry oleoresin cap-**
3 **sicum spray**

4 “(a) IN GENERAL.—The Director of the Bureau of
5 Prisons shall issue, on a routine basis, oleoresin capsicum
6 spray to—

7 “(1) any officer or employee of the Bureau of
8 Prisons who—

9 “(A) is employed in a prison that is not a
10 minimum or low security prison; and

11 “(B) may respond to an emergency situa-
12 tion in such a prison; and

13 “(2) such additional officers and employees of
14 prisons as the Director determines appropriate, in
15 accordance with this section.

16 “(b) TRAINING REQUIREMENT.—

17 “(1) IN GENERAL.—In order for an officer or
18 employee of the Bureau of Prisons, including a cor-
19 rectional officer, to be eligible to receive and carry
20 oleoresin capsicum spray pursuant to this section,
21 the officer or employee shall complete a training
22 course before being issued such spray, and annually
23 thereafter, on the use of oleoresin capsicum spray.

24 “(2) TRANSFERABILITY OF TRAINING.—An offi-
25 cer or employee of the Bureau of Prisons who com-
26 pletes a training course pursuant to paragraph (1)

1 and subsequently transfers to employment at a dif-
2 ferent prison, shall not be required to complete an
3 additional training course solely due such transfer.

4 “(3) TRAINING CONDUCTED DURING REGULAR
5 EMPLOYMENT.—An officer or employee of the Bu-
6 reau of Prisons who completes a training course re-
7 quired under paragraph (1) shall do so during the
8 course of that officer or employee’s regular employ-
9 ment, and shall be compensated at the same rate
10 that the officer or employee would be compensated
11 for conducting the officer or employee’s regular du-
12 ties.

13 “(c) USE OF OLEORESIN CAPSICUM SPRAY.—Offi-
14 cers and employees of the Bureau of Prisons issued oleo-
15 resin capsicum spray pursuant to subsection (a) may use
16 such spray to reduce acts of violence—

17 “(1) committed by prisoners against themselves,
18 other prisoners, prison visitors, and officers and em-
19 ployees of the Bureau of Prisons; and

20 “(2) committed by prison visitors against them-
21 selves, prisoners, other visitors, and officers and em-
22 ployees of the Bureau of Prisons.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for chapter 303 of part III of title 18, United States Code,

1 is amended by inserting after the item relating to section
2 4048 the following:

“4049. Officers and employees of the Bureau of Prisons authorized to carry oleoresin capsicum spray.”.

3 (c) BOP EVALUATION.—Not later than the date that
4 is 3 years after the date on which the Director of the Bu-
5 reau of Prisons begins to issue oleoresin capsicum spray
6 to officers and employees of the Bureau of Prisons pursu-
7 ant to section 4049 of title 18, United States Code (as
8 added by this title), the Director of the Bureau of Prisons
9 shall submit to Congress a report that includes the fol-
10 lowing:

11 (1) An evaluation of the effectiveness of issuing
12 oleoresin capsicum spray to officers and employees
13 of the Bureau of Prisons in prisons that are not
14 minimum or low security prisons, which shall include
15 such metrics as—

16 (A) reducing acts of violence committed by
17 prisoners against themselves, other prisoners,
18 prison visitors, and officers and employees of
19 the Bureau of Prisons in such prisons; and

20 (B) other metrics determined relevant by
21 the Director.

22 (2) An evaluation of the advisability of issuing
23 oleoresin capsicum spray to officers and employees

1 of the Bureau of Prisons in prisons that are min-
2 imum or low security prisons, including—

3 (A) the effectiveness that issuing such
4 spray in such prisons would have on reducing
5 acts of violence committed by prisoners against
6 themselves, other prisoners, prison visitors, and
7 officers and employees of the Bureau of Prisons
8 in such prisons; and

9 (B) the cost of issuing such spray in such
10 prisons. Recommendations to improve the safe-
11 ty of officers and employees of the Bureau of
12 Prisons in prisons.

13 (d) GAO REPORT.—Not later than 1 year after the
14 date on which the Director of the Bureau of Prisons sub-
15 mits to Congress the report required under subsection (c),
16 the Comptroller General of the United States shall submit
17 to Congress a report that assesses the results of the eval-
18 uation under subsection (c), including the strengths and
19 weaknesses of the evaluation.

20 **SEC. 208. PROMOTING SUCCESSFUL REENTRY.**

21 (a) FEDERAL REENTRY DEMONSTRATION
22 PROJECTS.—

23 (1) EVALUATION OF EXISTING BEST PRACTICES
24 FOR REENTRY.—Not later than 2 years after the
25 date of enactment of this Act, the Attorney General,

1 in consultation with the Administrative Office of the
2 United States Courts, shall—

3 (A) evaluate best practices used for the re-
4 entry into society of individuals released from
5 the custody of the Bureau of Prisons, includ-
6 ing—

7 (i) conducting examinations of reentry
8 practices in Federal, State, and local jus-
9 tice systems; and

10 (ii) consulting with Federal, State,
11 and local prosecutors, Federal, State, and
12 local public defenders, nonprofit organiza-
13 tions that provide reentry services, and
14 criminal justice experts; and

15 (B) submit to the Committee on the Judi-
16 ciary of the Senate and the Committee on the
17 Judiciary of the House of Representatives a re-
18 port that details the evaluation conducted under
19 subparagraph (A).

20 (2) CREATION OF REENTRY DEMONSTRATION
21 PROJECTS.—Not later than 3 years after the date of
22 enactment of this Act, the Attorney General, in con-
23 sultation with the Administrative Office of the
24 United States Courts, shall, subject to the avail-
25 ability of appropriations, select an appropriate num-

1 (B) a reentry review team for each pris-
2 oner to develop a reentry plan specific to the
3 needs of the prisoner, and to meet with the
4 prisoner following transfer to monitor the re-
5 entry plan;

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

10 (D) regular drug testing for participants
11 with a history of substance abuse;

12 (E) substance abuse treatment, which may
13 include addiction treatment medication, if ap-
14 propriate, medical treatment, including mental
15 health treatment, occupational, vocational and
16 educational training, apprenticeships, life skills
17 instruction, recovery support, conflict resolution
18 training, and other programming to promote ef-
19 fective reintegration into the community;

20 (F) the participation of volunteers to serve
21 as advisors and mentors to prisoners being re-
22 leased into the community;

23 (G) steps to ensure that the prisoner
24 makes satisfactory progress toward satisfying
25 any obligations to victims of the prisoner's of-

1 fense, including any obligation to pay restitu-
2 tion; and

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

5 (5) REVIEW OF PROJECT OUTCOMES.—Not
6 later than 5 years after the date of enactment of
7 this Act, the Administrative Office of the United
8 States Courts, in consultation with the Attorney
9 General, shall—

10 (A) evaluate the results from each Federal
11 judicial district selected under paragraph (2),
12 including the extent to which participating pris-
13 oners released from the custody of the Bureau
14 of Prisons were successfully reintegrated into
15 their communities, including whether the par-
16 ticipating prisoners maintained employment,
17 and refrained from committing further offenses;
18 and

19 (B) submit to the Committee on the Judi-
20 ciary of the Senate and the Committee on the
21 Judiciary of the House of Representatives a re-
22 port that contains—

23 (i) the evaluation of the best practices
24 identified in the report required under
25 paragraph (1); and

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

3 (b) STUDY ON THE IMPACT OF REENTRY ON CER-
4 TAIN COMMUNITIES.—

5 (1) IN GENERAL.—Not later than 2 years after
6 the date of enactment of this Act, the Attorney Gen-
7 eral, in consultation with the Administrative Office
8 of the United States Courts, shall submit to the
9 Committee on the Judiciary of the Senate and the
10 Committee on the Judiciary of the House of Rep-
11 resentatives a report on the impact of reentry of
12 prisoners on communities in which a dispropor-
13 tionate number of individuals reside upon release
14 from incarceration.

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

20 (A) an assessment of the reentry burdens
21 borne by local communities and local law en-
22 forcement agencies;

23 (B) a review of the resources available in
24 such communities to support successful reentry,
25 including resources provided by State, local,

1 and Federal governments, the extent to which
2 those resources are used effectively; and

3 (C) recommendations to strengthen the re-
4 sources in such communities available to sup-
5 port successful reentry and to lessen the burden
6 placed on such communities by the need to sup-
7 port reentry.

8 (c) FACILITATING REENTRY ASSISTANCE TO VET-
9 ERANS.—

10 (1) IN GENERAL.—Not later than 2 months
11 after the date of the commencement of a prisoner's
12 sentence pursuant to section 3585(a) of title 18,
13 United States Code, the Director of the Bureau of
14 Prisons shall notify the Secretary of Veterans Af-
15 fairs if the prisoner's presentence report, prepared
16 pursuant to section 3552 of title 18, United States
17 Code, indicates that the prisoner has previously
18 served in the Armed Forces of the United States or
19 if the prisoner has so notified the Bureau of Prisons.

20 (2) POST-COMMENCEMENT NOTICE.—If the
21 prisoner informs the Bureau of Prisons of the pris-
22 oner's prior service in the Armed Forces of the
23 United States after the commencement of the pris-
24 oner's sentence, the Director of the Bureau of Pris-
25 ons shall notify the Secretary of Veterans Affairs

1 not later than 2 months after the date on which the
2 prisoner provides such notice.

3 (3) CONTENTS OF NOTICE.—The notice pro-
4 vided by the Director of the Bureau of Prisons to
5 the Secretary of Veterans Affairs under this sub-
6 section shall include the identity of the prisoner, the
7 facility in which the prisoner is located, the pris-
8 oner’s offense of conviction, and the length of the
9 prisoner’s sentence.

10 (4) ACCESS TO VA.—The Bureau of Prisons
11 shall provide the Department of Veterans Affairs
12 with reasonable access to any prisoner who has pre-
13 viously served in the Armed Forces of the United
14 States for purposes of facilitating that prisoner’s re-
15 entry.

16 **SEC. 209. PAROLE FOR JUVENILES.**

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

20 **“§ 5032A. Modification of an imposed term of impris-**
21 **onment for violations of law committed**
22 **prior to age 18**

23 “(a) IN GENERAL.—Notwithstanding any other pro-
24 vision of law, a court may reduce a term of imprisonment
25 imposed upon a defendant convicted as an adult for an

1 offense committed and completed before the defendant at-
2 tained 18 years of age if—

3 “(1) the defendant has served 20 years in cus-
4 tody for the offense; and

5 “(2) the court finds, after considering the fac-
6 tors set forth in subsection (c), that the defendant
7 is not a danger to the safety of any person or the
8 community and that the interests of justice warrant
9 a sentence modification.

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

17 “(c) FACTORS AND INFORMATION TO BE CONSID-
18 ERED IN DETERMINING WHETHER TO MODIFY A TERM
19 OF IMPRISONMENT.—The court, in determining whether
20 to reduce a term of imprisonment pursuant to subsection
21 (a), shall consider—

22 “(1) the factors described in section 3553(a),
23 including the nature of the offense and the history
24 and characteristics of the defendant;

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

3 “(3) a report and recommendation of the Bu-
4 reau of Prisons, including information on whether
5 the defendant has substantially complied with the
6 rules of each institution to which the defendant has
7 been confined and whether the defendant has com-
8 pleted any educational, vocational, or other prison
9 program, where available;

10 “(4) a report and recommendation of the
11 United States attorney for any district in which an
12 offense for which the defendant is imprisoned was
13 prosecuted;

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

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

21 “(7) any report of physical, mental, or psy-
22 chiatric examination of the defendant conducted by
23 a licensed health care professional;

24 “(8) the family and community circumstances
25 of the defendant at the time of the offense, including

1 any history of abuse, trauma, or involvement in the
2 child welfare system;

3 “(9) the extent of the role of the defendant in
4 the offense and whether, and to what extent, an
5 adult was involved in the offense;

6 “(10) the diminished culpability of juveniles as
7 compared to that of adults, and the hallmark fea-
8 tures of youth, including immaturity, impetuosity,
9 and failure to appreciate risks and consequences,
10 which counsel against sentencing them to the other-
11 wise applicable term of imprisonment; and

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

14 “(d) LIMITATION ON APPLICATIONS PURSUANT TO
15 THIS SECTION.—

16 “(1) SECOND APPLICATION.—Not earlier than
17 5 years after the date on which an order entered by
18 a court on an initial application under this section
19 becomes final, a court shall entertain a second appli-
20 cation by the same defendant under this section.

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

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

4 “(e) PROCEDURES.—

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

7 “(A) any defendant who has served 19
8 years in prison for an offense committed and
9 completed prior to the defendant’s 18th birth-
10 day for which the defendant was convicted as
11 an adult; and

12 “(B) the sentencing court, the United
13 States attorney, and the Federal Public De-
14 fender or Executive Director of the Community
15 Defender Organization for the judicial district
16 in which the sentence described in subpara-
17 graph (A) was imposed.

18 “(2) CRIME VICTIMS RIGHTS.—Upon receiving
19 noticed under paragraph (1), the United States at-
20 torney shall provide any notifications required under
21 section 3771.

22 “(3) APPLICATION.—

23 “(A) IN GENERAL.—An application for a
24 sentence reduction under this section shall be
25 filed as a motion to reduce the sentence of the

1 defendant and may include affidavits or other
2 written material.

3 “(B) REQUIREMENT.—A motion to reduce
4 a sentence under this section shall be filed with
5 the sentencing court and a copy shall be served
6 on the United States attorney for the judicial
7 district in which the sentence was imposed.

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

9 “(A) EXPANDING THE RECORD.—After the
10 filing of a motion to reduce a sentence under
11 this section, the court may direct the parties to
12 expand the record by submitting additional
13 written materials relating to the motion.

14 “(B) HEARING.—

15 “(i) IN GENERAL.—The court shall
16 conduct a hearing on the motion, at which
17 the defendant and counsel for the defend-
18 ant shall be given the opportunity to be
19 heard.

20 “(ii) EVIDENCE.—In a hearing under
21 this section, the court may allow for par-
22 ties to present evidence.

23 “(iii) DEFENDANT’S PRESENCE.—At
24 a hearing under this section, the defendant
25 shall be present unless the defendant

1 waives the right to be present. The re-
2 quirement under this clause may be satis-
3 fied by the defendant appearing by video
4 teleconference.

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

11 “(v) FINDINGS.—The court shall state
12 in open court, and file in writing, the rea-
13 sons for granting or denying a motion
14 under this section.

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

21 “(f) EDUCATIONAL AND REHABILITATIVE PRO-
22 GRAMS.—A defendant who is convicted and sentenced as
23 an adult for an offense committed and completed before
24 the defendant attained 18 years of age may not be de-
25 prived of any educational, training, or rehabilitative pro-

1 gram that is otherwise available to the general prison pop-
2 ulation.”.

3 (b) TABLE OF SECTIONS.—The table of sections for
4 chapter 403 of title 18, United States Code, is amended
5 by inserting after the item relating to section 5032 the
6 following:

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

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

10 **SEC. 210. COMPASSIONATE RELEASE INITIATIVE.**

11 Section 231(g) of the Second Chance Act of 2007 (42
12 U.S.C. 17541(g)) is amended—

13 (1) in paragraph (1)—

14 (A) by inserting “and eligible terminally ill
15 offenders” after “elderly offenders” each place
16 that term appears; and

17 (B) in subparagraph (B), by inserting “,
18 upon written request from either the Bureau of
19 Prisons or an eligible elderly offender or eligible
20 terminally ill offender” after “to home deten-
21 tion”;

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

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

3 (4) in paragraph (4)—

4 (A) by inserting “or eligible terminally ill
5 offender” after “each eligible elderly offender”;
6 and

7 (B) by inserting “and eligible terminally ill
8 offenders” after “eligible elderly offenders”;
9 and

10 (5) in paragraph (5)—

11 (A) in subparagraph (A)—

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

14 (ii) in clause (ii)—

15 (I) by striking “the greater of 10
16 years or”; and

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

19 (iii) in clause (vi), by striking “and”
20 at the end; and

21 (iv) in clause (vii), by striking the pe-
22 riod at the end and inserting “; and”; and

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

24 “(D) ELIGIBLE TERMINALLY ILL OF-
25 FENDER.—The term ‘eligible terminally ill of-

1 fender’ means an offender in the custody of the
2 Bureau of Prisons who—

3 “(i) is serving a term of imprisonment
4 based on conviction for an offense or of-
5 fenses that do not include any crime of vio-
6 lence (as defined in section 16 of title 18,
7 United States Code), sex offense (as de-
8 fined in section 111(5) of the Sex Offender
9 Registration and Notification Act (42
10 U.S.C. 16911(5)), offense described in sec-
11 tion 2332b(g)(5)(B) of title 18, United
12 States Code, or offense under chapter 37
13 of title 18, United States Code;

14 “(ii) satisfies the criteria specified in
15 clauses (iii) through (viii) of subparagraph
16 (A); and

17 “(iii) has been determined by a med-
18 ical doctor approved by the Bureau of
19 Prisons to be—

20 “(I) in need of care at a nursing
21 home, intermediate care facility, or
22 assisted living facility, as those terms
23 are defined in section 232 of the Na-
24 tional Housing Act (12 U.S.C.
25 1715w); or

1 “(II) diagnosed with a terminal
2 illness.”.

3 **SEC. 211. JUVENILE SEALING AND EXPUNGEMENT.**

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

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

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

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

16 **“§ 5031. Definitions**

17 “In this chapter—

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

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

24 “(3) the term ‘destroy’ means to render a file
25 unreadable, whether paper, electronic, or otherwise

1 stored, by shredding, pulverizing, pulping, incin-
2 erating, overwriting, reformatting the media, or
3 other means;

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

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

10 “(6) the term ‘expungement petition’ means a
11 petition for expungement filed under section
12 5044(b);

13 “(7) the term ‘juvenile’ means—

14 “(A) except as provided in subparagraph
15 (B), a person who has not attained the age of
16 18; and

17 “(B) for the purpose of proceedings and
18 disposition under this chapter for an alleged act
19 of juvenile delinquency, a person who has not
20 attained the age of 21;

21 “(8) the term ‘juvenile delinquency’ means the
22 violation of a law of the United States committed by
23 a person before attaining the age of 18 which would
24 have been a crime if committed by an adult, or a
25 violation by such a person of section 922(x);

1 “(9) the term ‘juvenile nonviolent offense’
2 means—

3 “(A) in the case of an arrest or an adjudication that is dismissed or finds the juvenile
4 to be not delinquent, an act of juvenile delinquency that is not—
5
6

7 “(i) a criminal homicide, forcible rape
8 or any other sex offense (as defined in section 111 of the Sex Offender Registration
9 and Notification Act (42 U.S.C. 16911)),
10 kidnapping, aggravated assault, robbery,
11 burglary of an occupied structure, arson,
12 or a drug trafficking crime in which a fire-
13 arm was used; or
14

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

17 “(B) in the case of an adjudication that
18 finds the juvenile to be delinquent, an act of juvenile delinquency that is not—
19

20 “(i) described in clause (i) or (ii) of
21 subparagraph (A); or

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

24 “(10) the term ‘juvenile record’—

1 “(A) means a record maintained by a
2 court, the probation system, a law enforcement
3 agency, or any other government agency, of the
4 juvenile delinquency proceedings of a person;

5 “(B) includes—

6 “(i) a juvenile legal file, including a
7 formal document such as a petition, notice,
8 motion, legal memorandum, order, or de-
9 cree;

10 “(ii) a social record, including—

11 “(I) a record of a probation offi-
12 cer;

13 “(II) a record of any government
14 agency that keeps records relating to
15 juvenile delinquency;

16 “(III) a medical record;

17 “(IV) a psychiatric or psycho-
18 logical record;

19 “(V) a birth certificate;

20 “(VI) an education record, in-
21 cluding an individualized education
22 plan;

23 “(VII) a detention record;

1 “(VIII) demographic information
2 that identifies a juvenile or the family
3 of a juvenile; or

4 “(IX) any other record that in-
5 cludes personally identifiable informa-
6 tion that may be associated with a ju-
7 venile delinquency proceeding, an act
8 of juvenile delinquency, or an alleged
9 act of juvenile delinquency; and

10 “(iii) a law enforcement record, in-
11 cluding a photograph or a State criminal
12 justice information system record; and

13 “(C) does not include—

14 “(i) fingerprints; or

15 “(ii) a DNA sample;

16 “(11) the term ‘petitioner’ means a person who
17 files an expungement petition or a sealing petition;

18 “(12) the term ‘seal’ means—

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

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

1 “(13) the term ‘sealing hearing’ means a hear-
2 ing held under section 3632(b)(2)(B); and

3 “(14) the term ‘sealing petition’ means a peti-
4 tion for a sealing order filed under section
5 5043(b).”.

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

8 (1) in subsection (a), in the flush text following
9 paragraph (6), by inserting after “bonding,” the fol-
10 lowing: “participation in an educational system,”;
11 and

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

17 (d) SEALING; EXPUNGEMENT.—

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

21 **“§ 5043. Sealing**

22 “(a) AUTOMATIC SEALING OF NONVIOLENT OF-
23 FENSES.—

24 “(1) IN GENERAL.—Three years after the date
25 on which a person who is adjudicated delinquent

1 under this chapter for a juvenile nonviolent offense
2 completes every term of probation, official detention,
3 or juvenile delinquent supervision ordered by the
4 court with respect to the offense, the court shall
5 order the sealing of each juvenile record or portion
6 thereof that relates to the offense if the person—

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

10 “(B) is not engaged in active criminal
11 court proceedings or juvenile delinquency pro-
12 ceedings.

13 “(2) AUTOMATIC NATURE OF SEALING.—The
14 order of sealing under paragraph (1) shall require
15 no action by the person whose juvenile records are
16 to be sealed.

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

22 “(b) PETITIONING FOR EARLY SEALING OF NON-
23 VIOLENT OFFENSES.—

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

1 “(A) IN GENERAL.—During the 3-year pe-
2 riod beginning on the date on which a person
3 who is adjudicated delinquent under this chap-
4 ter for a juvenile nonviolent offense completes
5 every term of probation, official detention, or
6 juvenile delinquent supervision ordered by the
7 court with respect to the offense, the person
8 may petition the court to seal the juvenile
9 records that relate to the offense unless the per-
10 son—

11 “(i) has been convicted of a crime or
12 adjudicated delinquent for an act of juve-
13 nile delinquency since the date of the dis-
14 position; or

15 “(ii) is engaged in active criminal
16 court proceedings or juvenile delinquency
17 proceedings.

18 “(B) NOTICE OF OPPORTUNITY TO FILE
19 PETITION.—If a person is adjudicated delin-
20 quent for a juvenile nonviolent offense, the
21 court in which the person is adjudicated delin-
22 quent shall, in writing, inform the person of the
23 potential eligibility of the person to file a seal-
24 ing petition with respect to the offense upon
25 completing every term of probation, official de-

1 “(B) HEARING.—

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

4 “(I) except as provided in clause
5 (iii), conduct a hearing in accordance
6 with clause (ii); and

7 “(II) determine whether to enter
8 a sealing order for the person in ac-
9 cordance with subparagraph (C).

10 “(ii) OPPORTUNITY TO TESTIFY AND
11 OFFER EVIDENCE.—

12 “(I) PETITIONER.—The peti-
13 tioner may testify or offer evidence at
14 the sealing hearing in support of seal-
15 ing.

16 “(II) PROSECUTOR.—The Attor-
17 ney General may send a representa-
18 tive to testify or offer evidence at the
19 sealing hearing in support of or
20 against sealing.

21 “(III) OTHER INDIVIDUALS.—An
22 individual who receives notice under
23 subparagraph (A)(ii) may testify or
24 offer evidence at the sealing hearing
25 as to the issues described in sub-

1 clauses (I) and (II) of that subpara-
2 graph.

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

8 “(C) BASIS FOR DECISION.—The court
9 shall determine whether to grant the sealing pe-
10 tition after considering—

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

13 “(ii) all the evidence and testimony
14 presented at the sealing hearing, if such a
15 hearing is conducted;

16 “(iii) the best interests of the peti-
17 tioner;

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

21 “(v) the nature of the juvenile non-
22 violent offense;

23 “(vi) the disposition of the case;

24 “(vii) the manner in which the peti-
25 tioner participated in any court-ordered re-

1 habilitative programming or supervised
2 services;

3 “(viii) the length of the time period
4 during which the petitioner has been with-
5 out contact with any court or law enforce-
6 ment agency;

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

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

14 “(D) WAITING PERIOD AFTER DENIAL.—If
15 the court denies a sealing petition, the peti-
16 tioner may not file a new sealing petition with
17 respect to the same juvenile nonviolent offense
18 until the date that is 2 years after the date of
19 the denial.

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

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

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

10 “(i) describes—

11 “(I) the number of sealing peti-
12 tions granted and denied under this
13 subsection; and

14 “(II) the number of instances in
15 which the Attorney General supported
16 or opposed a sealing petition;

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

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

23 “(H) PUBLIC DEFENDER ELIGIBILITY.—

24 “(i) PETITIONERS UNDER AGE 18.—

25 The district court shall appoint counsel in

1 accordance with the plan of the district
2 court in operation under section 3006A to
3 represent a petitioner for purposes of this
4 subsection if the petitioner is less than 18
5 years of age.

6 “(ii) PETITIONERS AGE 18 AND
7 OLDER.—

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

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

20 “(aa) the anticipated com-
21 plexity of the sealing hearing, in-
22 cluding the number and type of
23 witnesses called to advocate
24 against the sealing of the records
25 of the petitioner; and

1 “(bb) the potential for ad-
2 verse testimony by a victim or a
3 representative of the Attorney
4 General.

5 “(c) EFFECT OF SEALING ORDER.—

6 “(1) PROTECTION FROM DISCLOSURE.—Except
7 as provided in paragraphs (3) and (4), if a court or-
8 ders the sealing of a juvenile record of a person
9 under subsection (a) or (b) with respect to a juvenile
10 nonviolent offense, the proceedings in the case shall
11 be deemed never to have occurred, and the person
12 may properly reply accordingly to any inquiry about
13 the events the records of which are ordered sealed.

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

18 “(A) send a copy of the sealing order to
19 each entity or person known to the court that
20 possesses a record relating to the offense, in-
21 cluding each—

22 “(i) law enforcement agency; and

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

1 “(B) in the sealing order, require each en-
2 tity or person described in subparagraph (A)
3 to—

4 “(i) seal the record; and

5 “(ii) submit a written certification to
6 the court, under penalty of perjury, that
7 the entity or person has sealed each paper
8 and electronic copy of the record;

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

11 “(D) after receiving a written certification
12 from each entity or person under subparagraph
13 (B)(ii), notify the petitioner that each entity or
14 person described in subparagraph (A) has
15 sealed each paper and electronic copy of the
16 record.

17 “(3) LAW ENFORCEMENT ACCESS TO SEALED
18 RECORDS.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), a law enforcement agency
21 may access a sealed juvenile record in the pos-
22 session of the agency or another law enforce-
23 ment agency solely—

24 “(i) to determine whether the person
25 who is the subject of the record is a non-

1 violent offender eligible for a first-time-of-
2 fender diversion program;

3 “(ii) for investigatory or prosecutorial
4 purposes; or

5 “(iii) for a background check that re-
6 lates to—

7 “(I) law enforcement employ-
8 ment; or

9 “(II) any position that a Federal
10 agency designates as a—

11 “(aa) national security posi-
12 tion; or

13 “(bb) high-risk, public trust
14 position.

15 “(B) TRANSITION PERIOD.—During the 1-
16 year period beginning on the date on which a
17 court orders the sealing of a juvenile record
18 under this section, a law enforcement agency
19 may, for law enforcement purposes, access the
20 record if it is in the possession of the agency
21 or another law enforcement agency.

22 “(4) PROHIBITION ON DISCLOSURE.—

23 “(A) PROHIBITION.—Except as provided
24 in subparagraph (C), it shall be unlawful to in-
25 tentiously make or attempt to make an unau-

1 thorized disclosure of any information from a
2 sealed juvenile record in violation of this sec-
3 tion.

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

7 “(C) EXCEPTIONS.—

8 “(i) BACKGROUND CHECKS.—In the
9 case of a background check for law en-
10 forcement employment or for any employ-
11 ment that requires a government security
12 clearance—

13 “(I) a person who is the subject
14 of a juvenile record sealed under this
15 section shall disclose the contents of
16 the record; and

17 “(II) a law enforcement agency
18 that possesses a juvenile record sealed
19 under this section—

20 “(aa) may disclose the con-
21 tents of the record; and

22 “(bb) if the agency obtains
23 or is subject to a court order au-
24 thorizing disclosure of the record,
25 may disclose the record.

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

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

1 “(iv) AUTHORIZATION FOR PERSON
2 TO DISCLOSE OWN RECORD.—A person
3 who is the subject of a juvenile record
4 sealed under this section may choose to
5 disclose the record.

6 “(d) LIMITATION RELATING TO SUBSEQUENT INCI-
7 DENTS.—

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

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

22 “(A) the court shall—

23 “(i) vacate the order; and

24 “(ii) notify the person who is the sub-
25 ject of the juvenile record, and each entity

1 or person described in subsection
2 (c)(2)(A), that the order has been vacated;
3 and

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

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

13 **“§ 5044. Expungement**

14 “(a) AUTOMATIC EXPUNGEMENT OF CERTAIN
15 RECORDS.—

16 “(1) ATTORNEY GENERAL MOTION.—

17 “(A) NONVIOLENT OFFENSES COMMITTED
18 BEFORE A PERSON TURNED 15.—If a person is
19 adjudicated delinquent under this chapter for a
20 juvenile nonviolent offense committed before the
21 person attained 15 years of age and completes
22 every term of probation, official detention, or
23 juvenile delinquent supervision ordered by the
24 court with respect to the offense before attain-
25 ing 18 years of age, on the date on which the

1 person attains 18 years of age, the Attorney
2 General shall file a motion in the district court
3 of the United States in which the person was
4 adjudicated delinquent requesting that each ju-
5 venile record of the person that relates to the
6 offense be expunged.

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

19 “(C) EXPUNGEMENT ORDER.—Upon the
20 filing of a motion in a district court of the
21 United States with respect to a juvenile non-
22 violent offense under subparagraph (A) or an
23 arrest for a juvenile nonviolent offense under
24 subparagraph (B), the court shall grant the mo-
25 tion and order that each juvenile record relating

1 to the offense or arrest, as applicable, be ex-
2 punged.

3 “(2) DISMISSED CASES.—If a district court of
4 the United States dismisses an information with re-
5 spect to a juvenile under this chapter or finds a ju-
6 venile not to be delinquent in a juvenile delinquency
7 proceeding under this chapter, the court shall con-
8 currently order that each juvenile record relating to
9 the applicable proceeding be expunged.

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

14 “(4) NOTICE OF AUTOMATIC EXPUNGEMENT.—
15 A court that orders the expungement of a juvenile
16 record of a person under paragraph (1)(C) or (2)
17 shall, in writing, inform the person of the
18 expungement and the benefits of expunging the
19 record.

20 “(b) PETITIONING FOR EXPUNGEMENT OF NON-
21 VIOLENT OFFENSES.—

22 “(1) IN GENERAL.—A person who is adju-
23 dicated delinquent under this chapter for a juvenile
24 nonviolent offense committed on or after the date on
25 which the person attained 15 years of age may peti-

1 tion the court in which the proceeding took place to
2 order the expungement of the juvenile record that
3 relates to the offense unless the person—

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

7 “(B) is engaged in active criminal court
8 proceedings or juvenile delinquency proceedings;
9 or

10 “(C) has had not less than 2 adjudications
11 of delinquency previously expunged under this
12 section.

13 “(2) PROCEDURES.—

14 “(A) NOTIFICATION OF PROSECUTOR AND
15 VICTIMS.—If a person files an expungement pe-
16 tition with respect to a juvenile nonviolent of-
17 fense, the court in which the petition is filed
18 shall provide notice of the petition—

19 “(i) to the Attorney General; and

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

23 “(I) the conduct of the petitioner
24 since the date of the offense; or

1 “(II) the reasons that the
2 expungement order should be entered.

3 “(B) HEARING.—

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

6 “(I) except as provided in clause
7 (iii), conduct a hearing in accordance
8 with clause (ii); and

9 “(II) determine whether to enter
10 an expungement order for the person
11 in accordance with subparagraph (C).

12 “(ii) OPPORTUNITY TO TESTIFY AND
13 OFFER EVIDENCE.—

14 “(I) PETITIONER.—The peti-
15 tioner may testify or offer evidence at
16 the expungement hearing in support
17 of expungement.

18 “(II) PROSECUTOR.—The Attor-
19 ney General may send a representa-
20 tive to testify or offer evidence at the
21 expungement hearing in support of or
22 against expungement.

23 “(III) OTHER INDIVIDUALS.—An
24 individual who receives notice under
25 subparagraph (A)(ii) may testify or

1 offer evidence at the expungement
2 hearing as to the issues described in
3 subclauses (I) and (II) of that sub-
4 paragraph.

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

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

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

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

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

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

20 “(vi) the disposition of the case;

21 “(vii) the manner in which the peti-
22 tioner participated in any court-ordered re-
23 habilitative programming or supervised
24 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 “(c) 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 sealed.

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(c) 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 shall no longer be sealed.

20 “(e) INCLUSION OF STATE JUVENILE DELINQUENCY
21 ADJUDICATIONS AND PROCEEDINGS.—For purposes of
22 subparagraphs (A) and (B) of subsection (b)(1) and para-
23 graphs (1) and (2) of subsection (d), the term ‘juvenile
24 delinquency’ includes the violation of a law of a State com-

1 mitted by a person before attaining the age of 18 which
2 would have been a crime if committed by an adult.”.

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

“5043. Sealing.

“5044. Expungement.”.

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

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

19 **SEC. 212. JUVENILE SOLITARY CONFINEMENT.**

20 (a) IN GENERAL.—Chapter 403 of title 18, United
21 States Code, as amended by section 211, is amended by
22 adding at the end the following:

23 **“§ 5045. Juvenile solitary confinement**

24 “(a) DEFINITIONS.—In this section—

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

2 “(A) a juvenile who—

3 “(i) is being proceeded against under
4 this chapter for an alleged act of juvenile
5 delinquency; or

6 “(ii) has been adjudicated delinquent
7 under this chapter; or

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

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

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

15 “(B) detained prior to disposition or con-
16 viction; and

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

20 “(b) PROHIBITION ON ROOM CONFINEMENT IN JU-
21 VENILE FACILITIES.—

22 “(1) IN GENERAL.—The use of room confine-
23 ment at a juvenile facility for discipline, punishment,
24 retaliation, or any reason other than as a temporary
25 response to a covered juvenile’s behavior that poses

1 a serious and immediate risk of physical harm to
2 any individual, including the covered juvenile, is pro-
3 hibited.

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

5 “(A) REQUIREMENT TO USE LEAST RE-
6 STRICTIVE TECHNIQUES.—

7 “(i) IN GENERAL.—Before a staff
8 member of a juvenile facility places a cov-
9 ered juvenile in room confinement, the
10 staff member shall attempt to use less re-
11 strictive techniques, including—

12 “(I) talking with the covered ju-
13 venile in an attempt to de-escalate the
14 situation; and

15 “(II) permitting a qualified men-
16 tal health professional to talk to the
17 covered juvenile.

18 “(ii) EXPLANATION.—If, after at-
19 tempting to use less restrictive techniques
20 as required under clause (i), a staff mem-
21 ber of a juvenile facility decides to place a
22 covered juvenile in room confinement, the
23 staff member shall first—

1 “(I) explain to the covered juve-
2 nile the reasons for the room confine-
3 ment; and

4 “(II) inform the covered juvenile
5 that release from room confinement
6 will occur—

7 “(aa) immediately when the
8 covered juvenile regains self-con-
9 trol, as described in subpara-
10 graph (B)(i); or

11 “(bb) not later than after
12 the expiration of the time period
13 described in subclause (I) or (II)
14 of subparagraph (B)(ii), as appli-
15 cable.

16 “(B) MAXIMUM PERIOD OF CONFINE-
17 MENT.—If a covered juvenile is placed in room
18 confinement because the covered juvenile poses
19 a serious and immediate risk of physical harm
20 to himself or herself, or to others, the covered
21 juvenile shall be released—

22 “(i) immediately when the covered ju-
23 venile has sufficiently gained control so as
24 to no longer engage in behavior that
25 threatens serious and immediate risk of

1 physical harm to himself or herself, or to
2 others; or

3 “(ii) if a covered juvenile does not suf-
4 ficiently gain control as described in clause
5 (i), not later than—

6 “(I) 3 hours after being placed in
7 room confinement, in the case of a
8 covered juvenile who poses a serious
9 and immediate risk of physical harm
10 to others; or

11 “(II) 30 minutes after being
12 placed in room confinement, in the
13 case of a covered juvenile who poses a
14 serious and immediate risk of physical
15 harm only to himself or herself.

16 “(C) RISK OF HARM AFTER MAXIMUM PE-
17 RIOD OF CONFINEMENT.—If, after the applica-
18 ble maximum period of confinement under sub-
19 clause (I) or (II) of subparagraph (B)(ii) has
20 expired, a covered juvenile continues to pose a
21 serious and immediate risk of physical harm de-
22 scribed in that subclause—

23 “(i) the covered juvenile shall be
24 transferred to another juvenile facility or
25 internal location where services can be pro-

1 vided to the covered juvenile without rely-
2 ing on room confinement; or

3 “(ii) if a qualified mental health pro-
4 fessional believes the level of crisis service
5 needed is not currently available, a staff
6 member of the juvenile facility shall ini-
7 tiate a referral to a location that can meet
8 the needs of the covered juvenile.

9 “(D) SPIRIT AND PURPOSE.—The use of
10 consecutive periods of room confinement to
11 evade the spirit and purpose of this subsection
12 shall be prohibited.”.

13 (b) TECHNICAL AND CONFORMING AMENDMENT.—
14 The table of sections for chapter 403 of title 18, United
15 States Code, as amended by section 211, is amended by
16 adding at the end the following:

 “5045. Juvenile solitary confinement.”.

17 **SEC. 213. 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.—In this subsection—

1 “(A) the term ‘applicant’ means the indi-
2 vidual to whom a record sought to be exchanged
3 pertains;

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

9 “(C) the term ‘incomplete’, with respect to
10 a record, means the record—

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

14 “(ii) indicates that an individual was
15 arrested or criminal proceedings were insti-
16 tuted against an individual but does not
17 include the final disposition of the arrest
18 or of the proceedings if a final disposition
19 has been reached;

20 “(D) the term ‘record’ means a record or
21 other information collected under this section
22 that relates to—

23 “(i) an arrest by a Federal law en-
24 forcement officer; or

25 “(ii) a Federal criminal proceeding;

1 “(E) the term ‘reporting jurisdiction’
2 means any person or entity that provides a
3 record to the Attorney General under this sec-
4 tion; and

5 “(F) the term ‘requesting entity’—

6 “(i) means a person or entity that
7 seeks the exchange of a record for civil
8 purposes that include employment, hous-
9 ing, credit, or any other type of applica-
10 tion; and

11 “(ii) does not include a law enforce-
12 ment or intelligence agency that seeks the
13 exchange of a record for—

14 “(I) investigative purposes; or

15 “(II) purposes relating to law en-
16 forcement employment.

17 “(2) INCOMPLETE OR INACCURATE RECORDS.—

18 The Attorney General shall establish and enforce
19 procedures to ensure the prompt release of accurate
20 records exchanged for employment-related purposes
21 through the records system created under this sec-
22 tion.

23 “(3) REQUIRED PROCEDURES.—The procedures
24 established under paragraph (2) shall include the
25 following:

1 “(A) INACCURATE RECORD OR INFORMA-
2 TION.—If the Attorney General determines that
3 a record is inaccurate, the Attorney General
4 shall promptly correct the record, including by
5 making deletions to the record if appropriate.

6 “(B) INCOMPLETE RECORD.—

7 “(i) IN GENERAL.—If the Attorney
8 General determines that a record is incom-
9 plete or cannot be verified, the Attorney
10 General—

11 “(I) shall attempt to complete or
12 verify the record; and

13 “(II) if unable to complete or
14 verify the record, may promptly make
15 any changes or deletions to the
16 record.

17 “(ii) LACK OF DISPOSITION OF AR-
18 REST.—For purposes of this subpara-
19 graph, an incomplete record includes a
20 record that indicates there was an arrest
21 and does not include the disposition of the
22 arrest.

23 “(iii) OBTAINING DISPOSITION OF AR-
24 REST.—If the Attorney General determines
25 that a record is an incomplete record de-

1 scribed in clause (ii), the Attorney General
2 shall, not later than 10 days after the date
3 on which the requesting entity requests the
4 exchange and before the exchange is made,
5 obtain the disposition (if any) of the ar-
6 rest.

7 “(C) NOTIFICATION OF REPORTING JURIS-
8 DICTION.—The Attorney General shall notify
9 each appropriate reporting jurisdiction of any
10 action taken under subparagraph (A) or (B).

11 “(D) OPPORTUNITY TO REVIEW RECORDS
12 BY APPLICANT.—In connection with an ex-
13 change of a record under this section, the At-
14 torney General shall—

15 “(i) notify the applicant that the ap-
16 plicant can obtain a copy of the record as
17 described in clause (ii) if the applicant
18 demonstrates a reasonable basis for the ap-
19 plicant’s review of the record;

20 “(ii) provide to the applicant an op-
21 portunity, upon request and in accordance
22 with clause (i), to—

23 “(I) obtain a copy of the record;
24 and

1 “(II) challenge the accuracy and
2 completeness of the record;

3 “(iii) promptly notify the requesting
4 entity of any such challenge;

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

8 “(v) provide to the applicant the spe-
9 cific findings and results of that investiga-
10 tion;

11 “(vi) promptly make any changes or
12 deletions to the records required as a re-
13 sult of the challenge; and

14 “(vii) report those changes to the re-
15 questing entity.

16 “(E) CERTAIN EXCHANGES PROHIBITED.—

17 “(i) IN GENERAL.—An exchange shall
18 not include any record—

19 “(I) except as provided in clause
20 (ii), about an arrest more than 2
21 years old as of the date of the request
22 for the exchange, that does not also
23 include a disposition (if any) of that
24 arrest;

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

6 “(III) to the extent the record is
7 not clearly an arrest or a disposition
8 of an arrest.

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

13 “(I) law enforcement employ-
14 ment; or

15 “(II) any position that a Federal
16 agency designates as a—

17 “(aa) national security posi-
18 tion; or

19 “(bb) high-risk, public trust
20 position.

21 “(4) FEES.—The Attorney General may collect
22 a reasonable fee for an exchange of records for em-
23 ployment-related purposes through the records sys-
24 tem created under this section to defray the costs
25 associated with exchanges for those purposes, includ-

1 ing any costs associated with the investigation of in-
2 accurate or incomplete records.”.

3 (b) REGULATIONS ON REASONABLE PROCEDURES.—

4 Not later than 1 year after the date of enactment of this
5 Act, the Attorney General shall issue regulations to carry
6 out section 534(g) of title 28, United States Code, as
7 added by subsection (a).

8 (c) REPORT.—

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

13 (2) REPORT REQUIRED.—Not later than 2
14 years after the date of enactment of this Act, the
15 Attorney General shall submit to Congress a report
16 on the implementation of subsection (g) of section
17 534 of title 28, United States Code, as added by
18 subsection (a), that includes—

19 (A) the number of exchanges of records for
20 employment-related purposes made with entities
21 in each State through the records system cre-
22 ated under such section 534;

23 (B) any prolonged failure of a Federal
24 agency to comply with a request by the Attor-

1 ney General for information about dispositions
2 of arrests; and
3 (C) the numbers of successful and unsuc-
4 cessful challenges to the accuracy and complete-
5 ness of records, organized by the Federal agen-
6 cy from which each record originated.