

1 **Purpose: In the nature of a substitute.**

2

3

4 **S. 2123**

5

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

8

9 **Referred to the Committee on _____ and ordered to be**
10 **printed**

11 **Ordered to lie on the table and to be printed**

12 **AMENDMENT IN THE NATURE OF A SUBSTITUTE INTENDED TO**
13 **BE PROPOSED BY MR. GRASSLEY**

14 **Viz:**

15 **Strike all after the enacting clause and insert the following:**

16 ~~Be it enacted by the Senate and House of Representatives of the United States of America in~~
17 ~~Congress assembled,~~

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

19 (a) Short Title.—This Act may be cited as the “Sentencing Reform and Corrections Act of
20 2015”.

21 (b) Table of Contents.—The table of contents for this Act is as follows:

22 Sec.1.Short title; table of contents.

23 **TITLE I—SENTENCING REFORM**

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

25 Sec.102.Broadening of existing safety valve.

26 Sec.103.Limitation on application of the 10-year mandatory minimum.

27 Sec.104.Clarification of section 924(c) of title 18, United States Code.

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

30 Sec.106.Application of Fair Sentencing Act.

31 Sec.107.Mandatory minimum sentences for domestic violence offenses.

1 Sec.108.Minimum term of imprisonment for certain acts relating to the provision of controlled
2 goods or services to terrorists or proliferators of weapons of mass destruction.

3 Sec.109.Inventory of Federal criminal offenses.

4 TITLE II—CORRECTIONS ACT

5 Sec.201.Short title.

6 Sec.202.Recidivism reduction programming and productive activities.

7 Sec.203.Post-sentencing risk and needs assessment system.

8 Sec.204.Prerelease custody.

9 Sec.205.Reports.

10 Sec.206.Additional tools to promote recovery and prevent drug and alcohol abuse and
11 dependence.

12 Sec.207.Eric Williams Correctional Officer Protection Act.

13 Sec.208.Promoting successful reentry.

14 Sec.209.Parole for juveniles.

15 Sec.210.Compassionate release initiative.

16 Sec.211.Juvenile sealing and expungement.

17 Sec.212.Juvenile solitary confinement.

18 Sec.213.Ensuring accuracy of Federal criminal records.

19 TITLE I—SENTENCING REFORM

20 SEC. 101. REDUCE AND RESTRICT ENHANCED 21 SENTENCING FOR PRIOR DRUG FELONIES.

22 (a) Controlled Substances Act Amendments.—The Controlled Substances Act (21 U.S.C. 801
23 et seq.) is amended—

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

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

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

29 “(A) an offense described in section 3559(c)(2)(F) of title 18, United States Code,
30 for which the offender served a term of imprisonment of more than 12 months; and

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

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

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

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

9 (ii) by striking “after two or more prior convictions for a felony drug offense
10 have become final, such person shall be sentenced to a mandatory term of life
11 imprisonment without release” and inserting the following: “after 2 or more prior
12 convictions for a serious drug felony or serious violent felony have become final,
13 such person shall be sentenced to a term of imprisonment of not less than 25
14 years”; and

15 (B) in subparagraph (B), in the flush text following clause (viii), by striking “If any
16 person commits such a violation after a prior conviction for a felony drug offense has
17 become final” and inserting the following: “If any person commits such a violation
18 after a prior conviction for a serious drug felony or serious violent felony has become
19 final”.

20 (b) Controlled Substances Import and Export Act Amendments.—Section 1010(b) of the
21 Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

22 (1) in paragraph (1), in the flush text following subparagraph (H), by striking “If any
23 person commits such a violation after a prior conviction for a felony drug offense has
24 become final, such person shall be sentenced to a term of imprisonment of not less than 20
25 years” and inserting “If any person commits such a violation after a prior conviction for a
26 serious drug felony or serious violent felony has become final, such person shall be
27 sentenced to a term of imprisonment of not less than 15 years”; and

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

30 (c) Applicability to Pending and Past Cases.—

31 (1) PENDING CASES.—This section, and the amendments made by this section, shall apply
32 to any offense that was committed before the date of enactment of this Act, if a sentence for
33 the offense has not been imposed as of such date of enactment.

34 (2) PAST CASES.—~~IN CASES.~~—

35 (A) **IN GENERAL.**—In the case of a defendant who, before the date of enactment of
36 this Act, was convicted of an offense for which the penalty is amended by this section
37 and was sentenced to a term of imprisonment for the offense, the sentencing court may,
38 on motion of the defendant or the Director of the Bureau of Prisons, or on its own
39 motion, upon prior notice to the Government, reduce the term of imprisonment for the
40 offense, after considering the factors set forth in section 3553(a) of title 18, United
41 States Code, the nature and seriousness of the danger to any person ~~or~~ the community,
42 **or any crime victims**, and the post-sentencing conduct of the defendant, if such a

1 reduction is consistent with this section and the amendments made by this section. **Any**
2 **proceeding under this paragraph shall be subject to section 3771 of title 18,**
3 **United States Code (the Crime Victims Rights Act).**

4 **(B) REQUIREMENT.—For each motion filed under subparagraph (A), the**
5 **Government shall conduct a particularized inquiry of the facts and circumstances**
6 **of the original sentencing of the defendant in order to assess whether a reduction**
7 **in sentence would be consistent with this section and the amendments made by**
8 **this section.**

9 SEC. 102. BROADENING OF EXISTING SAFETY VALVE.

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

11 (1) in subsection (f), by striking paragraph (1) and inserting the following:

12 “(1) the defendant does not have—

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

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

16 “(C) a prior 2-point drug trafficking or violent offense, as determined under the
17 sentencing guidelines;” and

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

19 “(g) Inadequacy of Criminal History.—

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

27 “(2) PROHIBITION.—This subsection shall not apply to any defendant who has been
28 convicted of a serious drug felony or a serious violent felony as defined in paragraphs (57)
29 and (58), respectively, of section 102 of the Controlled Substances Act (21 U.S.C. 802).

30 “(h) Definitions.—As used in this section—

31 “(1) the term ‘drug trafficking offense’ means an offense that is punishable by
32 imprisonment under any law of the United States, or of a State or foreign country, that
33 prohibits or restricts the importation, manufacture, or distribution of controlled substances
34 or the possession of controlled substances with intent to distribute; and

35 “(2) the term ‘violent offense’ means a ‘crime of violence’, as defined in section 16, that
36 is punishable by imprisonment.”.

37 (b) Applicability.—The amendments made by this section shall apply only to a conviction
38 entered on or after the date of enactment of this Act.

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

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

5 “(i) Limitation on Applicability of Certain Statutory Minimums.—Notwithstanding any other
6 provision of law, in the case of a conviction under section 401 or 406 of the Controlled
7 Substances Act (21 U.S.C. 841 and 846) or section 1010 or 1013 of the Controlled Substances
8 Import and Export Act (21 U.S.C. 960 and 963) for which the statutory minimum term of
9 imprisonment is 10 years, the court may impose a sentence as if the statutory minimum term of
10 imprisonment was 5 years, if the court finds at sentencing, after the Government has been
11 afforded the opportunity to make a recommendation, that—

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

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

19 “(3) the defendant did not play an enhanced role in the offense by acting as an organizer,
20 leader, manager, or supervisor of other participants in the offense, as determined under the
21 sentencing guidelines, or by exercising substantial authority or control over the criminal
22 activity of a criminal organization, regardless of whether the defendant was a member of
23 such organization;

24 “(4) the defendant did not act as an importer, exporter, high-level distributor or supplier,
25 wholesaler, or manufacturer of the controlled substances involved in the offense or engage
26 in a continuing criminal enterprise, as defined in section 408 of the Controlled Substances
27 Act (21 U.S.C. 848);

28 “(5) the defendant did not distribute a controlled substance to or with a person under 18
29 years of age; and

30 “(6) not later than the time of the sentencing hearing, the defendant has truthfully
31 provided to the Government all information and evidence the defendant has concerning the
32 offense or offenses that were part of the same course of conduct or of a common scheme or
33 plan, but the fact that the defendant has no relevant or useful other information to provide or
34 that the Government is already aware of the information shall not preclude a determination
35 by the court that the defendant has complied with this requirement.

36 “(j) Definitions.—As used in subsection (i) of this section—

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

38 “(A) means a defendant who imported, exported, or otherwise distributed or
39 supplied large quantities of a controlled substance to other drug distributors; and

40 “(B) does not include a defendant whose role was limited to transporting drugs or

1 money at the direction of others;

2 “(2) the term ‘manufacturer’ means a defendant who grew, produced, or manufactured a
3 controlled substance and was the principal owner of such controlled substance; and

4 “(3) the term ‘wholesaler’ means a defendant who sold non-retail quantities of a
5 controlled substance to other dealers or distributors.”.

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

8 SEC. 104. CLARIFICATION OF SECTION 924(c) OF TITLE 9 18, UNITED STATES CODE.

10 (a) In General.—Section 924(c)(1)(C) of title 18, United States Code, is amended—

11 (1) in the matter preceding clause (i), by striking “second or subsequent conviction under
12 this subsection” and inserting “violation of this subsection that occurs after a prior
13 conviction under this subsection or under State law for a crime of violence that contains as
14 an element of the offense the carrying, brandishing, or use of a firearm has become final”;
15 and

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

18 (b) Applicability to Pending and Past Cases.—

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

22 (2) PAST CASES.—~~IN CASES.~~—

23 **(A) IN GENERAL.—In** the case of a defendant who, before the date of enactment of
24 this Act, was convicted of an offense for which the penalty is amended by this section
25 and was sentenced to a term of imprisonment for the offense, the sentencing court may,
26 on motion of the defendant or the Director of the Bureau of Prisons, or on its own
27 motion, upon prior notice to the Government, reduce the term of imprisonment for the
28 offense, after considering the factors set forth in section 3553(a) of title 18, United
29 States Code, the nature and seriousness of the danger to any person ~~or~~, the community,
30 **or any crime victims**, and the post-sentencing conduct of the defendant, if such a
31 reduction is consistent with this section and the amendments made by this section. **Any**
32 **proceeding under this paragraph shall be subject to section 3771 of title 18,**
33 **United States Code (the Crime Victims Rights Act).**

34 **(B) REQUIREMENT.—For each motion filed under subparagraph (A), the**
35 **Government shall conduct a particularized inquiry of the facts and circumstances**
36 **of the original sentencing of the defendant in order to assess whether a reduction**
37 **in sentence would be consistent with this section and the amendments made by**
38 **this section.**

39 SEC. 105. AMENDMENT TO CERTAIN PENALTIES FOR

CERTAIN FIREARM OFFENSES AND ARMED CAREER CRIMINAL PROVISION.

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

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

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

(b) Applicability to Pending and Past Cases.—

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

(2) PAST CASES.—~~IN CASES.~~—

(A) IN GENERAL.—In the case of a defendant who, before the date of enactment of this Act, was convicted of an offense for which the penalty is amended by this section and was sentenced to a term of imprisonment for the offense, the sentencing court may, on motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, upon prior notice to the Government, reduce the term of imprisonment for the offense, after considering the factors set forth in section 3553(a) of title 18, United States Code, the nature and seriousness of the danger to any person ~~or~~, the community, **or any crime victims**, and the post-sentencing conduct of the defendant, if such a reduction is consistent with this section and the amendments made by this section. **Any proceeding under this paragraph shall be subject to section 3771 of title 18, United States Code (the Crime Victims Rights Act).**

(B) REQUIREMENT.—For each motion filed under subparagraph (A), the Government shall conduct a particularized inquiry of the facts and circumstances of the original sentencing of the defendant in order to assess whether a reduction in sentence would be consistent with this section and the amendments made by this section.

SEC. 106. APPLICATION OF FAIR SENTENCING ACT.

(a) Definition of Covered Offense.—In this section, the term “covered offense” means a violation of a Federal criminal statute, the statutory penalties for which were modified by section 2 or 3 of the Fair Sentencing Act of 2010 (Public Law 111–220; 124 Stat. 2372), that was committed before August 3, 2010.

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

(c) Limitations.—No court shall entertain a motion made under this section to reduce a sentence if the sentence was previously imposed or previously reduced in accordance with the

1 amendments made by sections 2 and 3 of the Fair Sentencing Act of 2010 (Public Law 111–220;
2 124 Stat. 2372) or if a **previous** motion made under this section to reduce the sentence was
3 ~~previously denied~~, **after the date of enactment of this Act, denied after a complete review of**
4 **the motion on the merits**. Nothing in this section shall be construed to require a court to reduce
5 any sentence pursuant to this section.

6 SEC. 107. MANDATORY MINIMUM SENTENCES FOR 7 DOMESTIC VIOLENCE OFFENSES.

8 Section 2261(b) of title 18, United States Code, is amended by striking paragraphs (1), (2),
9 and (3) and inserting the following:

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

11 “(A) in the case of a violation of this section, for any term of years not less than 10
12 or for life; and

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

14 “(2) if permanent disfigurement or life threatening bodily injury to the victim results—

15 “(A) in the case of a violation of this section, for not more than 25 years; and

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

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

19 “(A) in the case of a violation of this section, for not more than 15 years; and

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

21 SEC. 108. MINIMUM TERM OF IMPRISONMENT FOR 22 CERTAIN ACTS RELATING TO THE PROVISION OF 23 CONTROLLED GOODS OR SERVICES TO TERRORISTS 24 OR PROLIFERATORS OF WEAPONS OF MASS 25 DESTRUCTION.

26 Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is
27 amended—

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

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

31 “(d) Minimum Term of Imprisonment for Certain Acts Relating to the Provision of Controlled
32 Goods or Services to Terrorists or Proliferators of Weapons of Mass Destruction.—

33 “(1) IN GENERAL.—A person who willfully commits, willfully attempts to commit, or
34 willfully conspires to commit, solicits the commission of, or aids or abets in the commission
35 of, an unlawful act described in paragraph (2) shall, upon conviction, be imprisoned for a
36 term of not less than 5 years. Notwithstanding any other provision of law, a court shall not

1 place on probation any person sentenced under this subsection.

2 “(2) UNLAWFUL ACTS DESCRIBED.—An unlawful act described in this paragraph is an
3 unlawful act described in subsection (a) that involves—

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

5 “(i) a state sponsor of terrorism;

6 “(ii) an organization designated as a foreign terrorist organization under section
7 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)); or

8 “(iii) a person on the list of specially designated nationals and blocked persons
9 maintained by the Office of Foreign Assets Control of the Department of the
10 Treasury;

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

14 “(C) the provision of defense articles or defense services, without a license or other
15 written approval of the Department of State, to, or for the use of, a country subject to
16 an arms embargo by the United States.

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

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

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

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

24 “(iii) any successor to the United States Munitions List or the Commerce
25 Control List.

26 “(B) COUNTRY SUBJECT TO AN ARMS EMBARGO.—The term ‘country subject to an
27 arms embargo’ means any foreign country listed in section 126.1 of title 22, Code of
28 Federal Regulations (or any corresponding similar regulation or ruling), for which—

29 “(i) an embargo or prohibition exists on the export of defense articles or
30 defense services; or

31 “(ii) the policy of the United States is to deny licenses and other approvals for
32 the export of defense articles and defense services.

33 “(C) DEFENSE ARTICLE; DEFENSE SERVICE.—The terms ‘defense article’ and ‘defense
34 service’ have the meanings given those terms in section 47 of the Arms Export Control
35 Act (22 U.S.C. 2794).

36 “(D) STATE SPONSOR OF TERRORISM.—The term ‘state sponsor of terrorism’ means
37 any foreign country, or political subdivision, agency, or instrumentality of a foreign
38 country, if the Secretary of State has determined that the government of the country
39 has repeatedly provided support for acts of international terrorism pursuant to—

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

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

4 “(iii) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C.
5 2371(a)); or

6 “(iv) any other provision of law.

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

9 SEC. 109. INVENTORY OF FEDERAL CRIMINAL 10 OFFENSES.

11 (a) Definitions.—In this section—

12 (1) the term “criminal regulatory offense” means a Federal regulation that is enforceable
13 by a criminal penalty; ~~and~~

14
15 (2) the term “criminal statutory offense” means a criminal offense under a Federal
16 statute; ~~and~~

17 **(3) the term “Executive agency”—**

18 **(A) has the meaning given the term in section 105 of title 5, United States Code;**
19 **and**

20 **(B) includes the United States Postal Service and the Postal Regulatory**
21 **Commission.;**

22
23 (b) Report on Criminal Statutory Offenses.—Not later than 1 year after the date of enactment
24 of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate
25 and the Committee on the Judiciary of the House of Representatives a report, which shall
26 include—

27 (1) a list of all criminal statutory offenses, including a list of the elements for each
28 criminal statutory offense; and

29 (2) for each criminal statutory offense listed under paragraph (1)—

30 (A) the potential criminal penalty for the criminal statutory offense;

31 **(B) the number of violations of the criminal statutory offense referred to the**
32 **Department of Justice by an Executive agency for prosecution in each of the years**
33 **during the 15-year period preceding the date of enactment of this Act;**

34 **(C) the number of prosecutions for the criminal statutory offense brought by the**
35 **Department of Justice each year for the 15-year period preceding the date of enactment**
36 **of this Act;**

37 ~~and~~

1 ~~(C) the mens rea requirement~~**(D) the number of prosecutions** for the criminal
2 statutory offense **brought by the Department of Justice that have resulted in**
3 **conviction for each year of the 15-year period preceding the date of enactment of**
4 **this Act;**

5 **(E) the number of convictions for the criminal statutory offense that have**
6 **resulted in imprisonment for each year of the 15-year period preceding the date**
7 **of enactment of this Act;**

8 **(F) the average length of sentence of imprisonment imposed as a result of**
9 **conviction for the criminal statutory offense during each year of the 15-year**
10 **period preceding the date of enactment of this Act;**

11 **(G) the mens rea requirement for the criminal statutory offense; and**

12 **(H) the number of prosecutions for the criminal statutory offense in which the**
13 **Department of Justice was not required to prove mens rea as a component of the**
14 **offense.**

15 **(c) Report on Criminal Regulatory Offenses.—Not-**

16 ~~(e) Report on Criminal Regulatory Offenses.—~~

17 ~~(1) Reports.—~~Not later than 1 year after the date of enactment of this Act, the head of each
18 ~~Federal~~ **Executive** agency described in paragraph ~~(2)~~ shall submit to the Committee on the
19 Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a
20 report, which shall include—

21 ~~(A)~~**(1)** a list of all criminal regulatory offenses enforceable by the agency; and

22 ~~(B)~~**(2)** for each criminal regulatory offense listed under subparagraph ~~(A)~~— **paragraph**
23 **(1)—**

24 ~~(i)~~**(A)** the potential criminal penalty for a violation of the criminal regulatory
25 offense;

26 ~~(ii)~~**(B)** the number of violations of the criminal regulatory offense referred to the
27 Department of Justice for prosecution in each of the years during the 15-year period
28 preceding the date of enactment of this Act;

29 **and**

30 ~~(iii) the mens rea requirement~~**(C) the number of prosecutions** for the criminal
31 regulatory offense **brought by the Department of Justice each year for the 15-year**
32 **period preceding the date of enactment of this Act;**

33 **(D) the number of prosecutions for the criminal regulatory offense brought by**
34 **the Department of Justice that have resulted in conviction for each year of the**
35 **15-year period preceding the date of enactment of this Act;**

36 **(E) the number of convictions for the criminal regulatory offense that have**
37 **resulted in imprisonment for each year of the 15-year period preceding the date**
38 **of enactment of this Act;**

39 **(F) the average length of sentence of imprisonment imposed as a result of**
40 **conviction for the criminal regulatory offense during each year of the 15-year**

1 **period preceding the date of enactment of this Act;**

2 **(G) the mens rea requirement for the criminal regulatory offense; and**

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

6 ~~(2) Agencies described.—The Federal agencies described in this paragraph are the~~
7 ~~Department of Agriculture, the Department of Commerce, the Department of~~
8 ~~Education, the Department of Energy, the Department of Health and Human Services,~~
9 ~~the Department of Homeland Security, the Department of Housing and Urban~~
10 ~~Development, the Department of the Interior, the Department of Labor, the Department~~
11 ~~of Transportation, the Department of the Treasury, the Commodity Futures Trading~~
12 ~~Commission, the Consumer Product Safety Commission, the Equal Employment~~
13 ~~Opportunity Commission, the Export-Import Bank of the United States, the Farm~~
14 ~~Credit Administration, the Federal Communications Commission, the Federal Deposit~~
15 ~~Insurance Corporation, the Federal Election Commission, the Federal Labor Relations~~
16 ~~Authority, the Federal Maritime Commission, the Federal Mine Safety and Health~~
17 ~~Review Commission, the Federal Trade Commission, the National Labor Relations~~
18 ~~Board, the National Transportation Safety Board, the Nuclear Regulatory Commission,~~
19 ~~the Occupational Safety and Health Review Commission, the Office of Compliance,~~
20 ~~the Postal Regulatory Commission, the Securities and Exchange Commission, the~~
21 ~~Securities Investor Protection Corporation, the Environmental Protection Agency, the~~
22 ~~Small Business Administration, the Federal Housing Finance Agency, and the Office~~
23 ~~of Government Ethics.~~

24 (d) Index.—Not later than 2 years after the date of enactment of this Act—

25 (1) the Attorney General shall establish a publically accessible index of each criminal
26 statutory offense listed in the report required under subsection (b) and make the index
27 available and freely accessible on the website of the Department of Justice; and

28 (2) the head of each **Executive** agency ~~described in subsection (c)(2)~~ shall establish a
29 publically accessible index of each criminal regulatory offense listed in the report required
30 under subsection (c)(~~1~~) and make the index available and freely accessible on the website of
31 the agency.

32 (e) Rule of Construction.—Nothing in this section shall be construed to require or authorize
33 appropriations.

34 **TITLE II—CORRECTIONS ACT**

35 **SEC. 201. SHORT TITLE.**

36 This title may be cited as the “Corrections Oversight, Recidivism Reduction, and Eliminating
37 Costs for Taxpayers In Our National System Act of 2015” or the “CORRECTIONS Act”.

38 **SEC. 202. RECIDIVISM REDUCTION PROGRAMMING** 39 **AND PRODUCTIVE ACTIVITIES.**

1 (a) In General.—Not later than 1 year after the date of enactment of this Act, the Attorney
2 General shall—

3 (1) conduct a review of recidivism reduction programming and productive activities,
4 including prison jobs, offered in correctional institutions, including programming and
5 activities offered in State correctional institutions, which shall include a review of research
6 on the effectiveness of such programs;

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

11 (3) submit to the Committee on the Judiciary and the Committee on Appropriations of the
12 Senate and the Committee on the Judiciary and the Committee on Appropriations of the
13 House of Representatives a strategic plan for the expansion of recidivism reduction
14 programming and productive activities, including prison jobs, in Bureau of Prisons facilities
15 required by section 3621(h)(1) of title 18, United States Code, as added by subsection (b).

16 (b) Amendment.—Section 3621 of title 18, United States Code, is amended by adding at the
17 end the following:

18 “(h) Recidivism Reduction Programming and Productive Activities.—

19 “(1) IN GENERAL.—The Director of the Bureau of Prisons, shall, subject to the availability
20 of appropriations, make available to all eligible prisoners appropriate recidivism reduction
21 programming or productive activities, including prison jobs, in accordance with paragraph
22 (2).

23 “(2) EXPANSION PERIOD.—

24 “(A) IN GENERAL.—In carrying out this subsection, the Director of the Bureau of
25 Prisons shall have 6 years beginning on the date of enactment of this subsection to
26 ensure appropriate recidivism reduction programming and productive activities,
27 including prison jobs, are available for all eligible prisoners.

28 “(B) CERTIFICATION.—

29 “(i) IN GENERAL.—The National Institute of Corrections shall evaluate all
30 recidivism reduction programming or productive activities that are made available
31 to eligible prisoners and determine whether such programming or activities may
32 be certified as evidence-based and effective at reducing or mitigating offender
33 risk and recidivism.

34 “(ii) CONSIDERATIONS.—In determining whether or not to issue a certification
35 under clause (i), the National Institute of Corrections shall consult with internal or
36 external program evaluation experts, including the Office of Management and
37 Budget and the Comptroller General of the United States to identify appropriate
38 evaluation methodologies for each type of program offered, and may use analyses
39 of similar programs conducted in other correctional settings.

40 “(3) RECIDIVISM REDUCTION PARTNERSHIPS.—Not later than 18 months after the date of
41 enactment of this subsection, the Attorney General shall issue regulations requiring the

1 official in charge of each correctional facility to ensure, subject to the availability of
2 appropriations, that appropriate recidivism reduction programming and productive
3 activities, including prison jobs, are available for all eligible prisoners within the time
4 period specified in paragraph (2), by entering into partnerships with the following:

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

8 “(B) Educational institutions that will deliver academic classes in Bureau of Prisons
9 facilities, on a paid or volunteer basis.

10 “(C) Private entities that will, on a volunteer basis—

11 “(i) deliver occupational and vocational training and certifications in Bureau of
12 Prisons facilities;

13 “(ii) provide equipment to facilitate occupational and vocational training or
14 employment opportunities for prisoners;

15 “(iii) employ prisoners; or

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

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

20 “(4) ASSIGNMENTS.—In assigning prisoners to recidivism reduction programming and
21 productive activities, the Director of the Bureau of Prisons shall use the Post-Sentencing
22 Risk and Needs Assessment System described in section 3621A and shall ensure that—

23 “(A) to the extent practicable, prisoners are separated from prisoners of other risk
24 classifications in accordance with best practices for effective recidivism reduction;

25 “(B) a prisoner who has been classified as low risk and without need for recidivism
26 reduction programming shall participate in and successfully complete productive
27 activities, including prison jobs, in order to maintain a low-risk classification;

28 “(C) a prisoner who has successfully completed all recidivism reduction
29 programming to which the prisoner was assigned shall participate in productive
30 activities, including a prison job; and

31 “(D) to the extent practicable, each eligible prisoner shall participate in and
32 successfully complete recidivism reduction programming or productive activities,
33 including prison jobs, throughout the entire term of incarceration of the prisoner.

34 “(5) MENTORING SERVICES.—Any person who provided mentoring services to a prisoner
35 while the prisoner was in a penal or correctional facility of the Bureau of Prisons shall be
36 permitted to continue such services after the prisoner has been transferred into prerelease
37 custody, unless the person in charge of the penal or correctional facility of the Bureau of
38 Prisons demonstrates, in a written document submitted to the person, that such services
39 would be a significant security risk to the prisoner, persons who provide such services, or
40 any other person.

1 “(6) RECIDIVISM REDUCTION PROGRAM INCENTIVES AND REWARDS.—Prisoners who have
2 successfully completed recidivism reduction programs and productive activities shall be
3 eligible for the following:

4 “(A) TIME CREDITS.—

5 “(i) IN GENERAL.—Subject to clauses (ii) and (iii), a prisoner who has
6 successfully completed a recidivism reduction program or productive activity that
7 has been certified under paragraph (2)(B) shall receive time credits of 5 days for
8 each period of 30 days of successful completion of such program or activity. A
9 prisoner who is classified as low risk shall receive additional time credits of 5
10 days for each period of 30 days of successful completion of such program or
11 activity.

12 “(ii) AVAILABILITY.—A prisoner may not receive time credits under this
13 subparagraph for successfully completing a recidivism reduction program or
14 productive activity—

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

16 “(II) during official detention before the date on which the prisoner’s
17 sentence commences under section 3585(a).

18 “(iii) EXCLUSIONS.—No credit shall be awarded under this subparagraph to a
19 prisoner serving a sentence for a second or subsequent conviction for a Federal
20 offense imposed after the date on which the prisoner’s first such conviction
21 became final, which shall not include any offense under section 1152 or section
22 1153 for which the prisoner was sentenced to less than 13 months. No credit shall
23 be awarded under this subparagraph to a prisoner with 13 or more criminal history
24 points, as determined under the sentencing guidelines, at the time of sentencing,
25 unless the court determines in writing at sentencing that the defendant’s criminal
26 history category substantially overrepresents the seriousness of the defendant’s
27 criminal history or the likelihood that the defendant will commit other crimes **and**
28 **exercises its authority to lower the defendant’s criminal history category.** No
29 credit shall be awarded under this subparagraph to any prisoner serving a sentence
30 of imprisonment for conviction for any of the following offenses:

31 “(I) A Federal crime of terrorism, as defined under section 2332b(g)(5).

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

33 “(III) A Federal sex offense, as described in section 111 of the Sex
34 Offender Registration and Notification Act (42 U.S.C. 16911).

35 “(IV) Engaging in a continuing criminal enterprise, as defined in section
36 408 of the Controlled Substances Act (21 U.S.C. 848).

37 “(V) A Federal fraud offense for which the prisoner received a sentence of
38 imprisonment of more than 15 years.

39 “(VI) A Federal crime involving child exploitation, as defined in section 2
40 of the PROTECT Our Children Act of 2008 (42 U.S.C. 17601).

41 “(VII) A violation of—

1 “(aa) chapter 11 (relating to bribery, graft, and conflicts of interest);
2 “(bb) chapter 29 (relating to elections and political activities);
3 “(cc) section 1028A, 1031, or 1040 (relating to fraud);
4 “(dd) chapter 63 involving a scheme or artifice to deprive another of
5 the intangible right of honest services;
6 “(ee) chapter 73 (relating to obstruction of justice);
7 “(ff) chapter 95 or 96 (relating to racketeering and racketeer
8 influenced and corrupt organizations); or
9 “(gg) chapter 110 (relating to sexual exploitation and other abuse of
10 children).

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

16 “(B) OTHER INCENTIVES.—The Bureau of Prisons shall develop policies to provide
17 appropriate incentives for successful completion of recidivism reduction programming
18 and productive activities, other than time credit pursuant to subparagraph (A),
19 including incentives for prisoners who are precluded from earning credit under
20 subparagraph (A)(iii). Such incentives may include additional telephone or visitation
21 privileges for use with family, close friends, mentors, and religious leaders.

22 “(C) PENALTIES.—The Bureau of Prisons may reduce rewards a prisoner has
23 previously earned under subparagraph (A) for prisoners who violate the rules of the
24 penal or correctional facility in which the prisoner is imprisoned, a recidivism
25 reduction program, or a productive activity.

26 “(D) RELATION TO OTHER INCENTIVE PROGRAMS.—The incentives described in this
27 paragraph shall be in addition to any other rewards or incentives for which a prisoner
28 may be eligible, except that a prisoner shall not be eligible for the time credits
29 described in subparagraph (A) if the prisoner has accrued time credits under another
30 provision of law based solely upon participation in, or successful completion of, such
31 program.

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

33 “(A) shall be considered to have successfully completed a recidivism reduction
34 program or productive activity, if the Bureau of Prisons determines that the prisoner—

35 “(i) regularly attended and participated in the recidivism reduction program or
36 productive activity;

37 “(ii) regularly completed assignments or tasks in a manner that allowed the
38 prisoner to realize the criminogenic benefits of the recidivism reduction program
39 or productive activity;

40 “(iii) did not regularly engage in disruptive behavior that seriously undermined

1 the administration of the recidivism reduction program or productive activity; and

2 “(iv) satisfied the requirements of clauses (i) through (iii) for a time period that
3 is not less than 30 days and allowed the prisoner to realize the criminogenic
4 benefits of the recidivism reduction program or productive activity; and

5 “(B) for purposes of paragraph (6)(A), may be given credit for successful
6 completion of a recidivism reduction program or productive activity for the time period
7 during which the prisoner participated in such program or activity if the prisoner
8 satisfied the requirements of subparagraph (A) during such time period,
9 notwithstanding that the prisoner continues to participate in such program or activity.

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

11 “(A) ELIGIBLE PRISONER.—For purposes of this subsection, the term ‘eligible
12 prisoner’—

13 “(i) means a prisoner serving a sentence of incarceration for conviction of a
14 Federal offense; and

15 “(ii) does not include any prisoner who the Bureau of Prisons determines—

16 “(I) is medically unable to successfully complete recidivism reduction
17 programming or productive activities;

18 “(II) would present a security risk if permitted to participate in recidivism
19 reduction programming; or

20 “(III) is serving a sentence of incarceration of less than 1 month.

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

22 “(i) means a group or individual activity, including holding a job as part of a
23 prison work program, that is designed to allow prisoners classified as having a
24 lower risk of recidivism to maintain such classification, when offered to such
25 prisoners; and

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

28 “(C) RECIDIVISM REDUCTION PROGRAM.—The term ‘recidivism reduction program’
29 means—

30 “(i) a group or individual activity that—

31 “(I) has been certified to reduce recidivism or promote successful reentry;
32 and

33 “(II) may include—

34 “(aa) classes on social learning and life skills;

35 “(bb) classes on morals or ethics;

36 “(cc) academic classes;

37 “(dd) cognitive behavioral treatment;

- 1 “(ee) mentoring;
- 2 “(ff) occupational and vocational training;
- 3 “(gg) faith-based classes or services;
- 4 “(hh) domestic violence education and deterrence programming;
- 5 “(ii) victim-impact classes or other restorative justice programs;
- 6 “(jj) industry-sponsored workforce development, education, or
- 7 training; and
- 8 “(kk) a prison job; and

9 “(ii) shall include—

10 “(I) a productive activity; and

11 “(II) recovery programming.

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

17 (c) No Consideration of Earned Time Credit Eligibility During Sentencing.—

18 (1) IN GENERAL.—Section 3553 of title 18, United States Code, as amended by sections
19 102 and 103 of this Act, is amended—

20 (A) by redesignating subsections (b) through (j) as subsections (c) through (k),
21 respectively;

22 (B) in subsection (e)(3), as so redesignated, by striking “subsection (c)” and
23 inserting “subsection (d)”; and

24 (C) by inserting after subsection (a) the following:

25 “(b) In imposing a sentence, the court shall not consider the defendant’s eligibility or potential
26 eligibility for credit under section 3621(e), 3621(h), or 3624(b) or any similar provision of ~~law.~~
27 **law, but shall not be prohibited from informing the defendant of the existence of such**
28 **credits or related programs.”.**

29 (2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 3742 of title 18, United States
30 Code, is amended—

31 (A) in subsection (e)(3)—

32 (i) in subparagraph (A), by striking “section 3553(c)” and inserting “section
33 3553(d)”;

34 (ii) in subparagraph (B)(ii), by striking “section 3553(b)” and inserting “section
35 3553(c)”;

36 (iii) in subparagraph (C), by striking “section 3553(c)” and inserting “section
37 3553(d)”;

1 (B) in subsection (g)(2), by striking “section 3553(c)” and inserting “section
2 3553(d)”;

3 (C) in subsection (j)(1)(B), by striking “section 3553(b)” and inserting “section
4 3553(c)”.

5 SEC. 203. POST-SENTENCING RISK AND NEEDS 6 ASSESSMENT SYSTEM.

7 (a) In General.—Subchapter C of chapter 229 of title 18, United States Code, is amended by
8 inserting after section 3621 the following:

9 “3621A. Post-sentencing risk and needs assessment system

10 “(a) In General.—Not later than 30 months after the date of the enactment of this section, the
11 Attorney General shall develop for use by the Bureau of Prisons an offender risk and needs
12 assessment system, to be known as the ‘Post-Sentencing Risk and Needs Assessment System’ or
13 the ‘Assessment System’, which shall—

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

16 “(2) to the extent practicable, assess and determine the risk of violence of all prisoners;

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

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

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

25 “(6) provide information on best practices concerning the tailoring of recidivism
26 reduction programs to the specific criminogenic needs of each prisoner so as to effectively
27 lower the prisoner’s risk of recidivating.

28 “(b) Development of System.—

29 “(1) IN GENERAL.—In designing the Assessment System, the Attorney General shall—

30 “(A) use available research and best practices in the field and consult with academic
31 and other criminal justice experts as appropriate;

32 “(B) ensure that the Assessment System measures indicators of progress and
33 improvement, and of regression, including newly acquired skills, attitude, and behavior
34 changes over time, through meaningful consideration of dynamic risk factors, such
35 that—

36 “(i) all prisoners at each risk level other than low risk have a meaningful
37 opportunity to progress to a lower risk classification during the period of the
38 incarceration of the prisoner through changes in dynamic risk factors; and

1 “(ii) all prisoners on prerelease custody, other than prisoners classified as low
2 risk, have a meaningful opportunity to progress to a lower risk classification
3 during such custody through changes in dynamic risk factors;

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

7 “(D) ensure that the Assessment System does not result in unwarranted disparities,
8 including by—

9 “(i) regularly evaluating rates of recidivism among similarly classified
10 prisoners to identify any unwarranted disparities in such rates, including
11 disparities among similarly classified prisoners of different racial groups; and

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

14 “(2) RISK AND NEEDS ASSESSMENT TOOLS.—In carrying out this subsection, the Attorney
15 General shall—

16 “(A) develop a suitable intake assessment tool to perform the initial assessments and
17 determinations described in subsection (a)(1), and to make the assignments described
18 in **paragraphs (3) and (4) of** subsection (a)~~(3)~~;

19 “(B) develop a suitable reassessment tool to perform the reassessments and updates
20 described in subsection ~~(a)(4)~~**(a)(5)**; and

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

23 “(3) USE OF EXISTING RISK AND NEEDS ASSESSMENT TOOLS PERMITTED.—In carrying out
24 this subsection, the Attorney General may use existing risk and needs assessment tools, as
25 appropriate, for the assessment tools required under paragraph (2).

26 “(4) USE OF PRESENTENCE REPORT.—In carrying out this subsection, the Attorney General
27 shall coordinate with the United States Probation and Pretrial Services to ensure that the
28 findings of the Presentence Report of each offender are available and considered in the
29 Assessment System.

30 “(5) VALIDATION.—In carrying out this subsection, the Attorney General shall
31 statistically validate the risk and needs assessment tools on the Federal prison population, or
32 ensure that the tools have been so validated. To the extent such validation cannot be
33 completed with the time period specified in subsection (a), the Attorney General shall
34 ensure that such validation is completed as soon as is practicable.

35 “(6) RELATIONSHIP WITH EXISTING CLASSIFICATION SYSTEMS.—The Bureau of Prisons
36 may incorporate its existing Inmate Classification System into the Assessment System if the
37 Assessment System assesses the risk level and criminogenic needs of each prisoner and
38 determines the appropriate security level institution for each prisoner. Before the
39 development of the Assessment System, the Bureau of Prisons may use the existing Inmate
40 Classification System, or a pre-existing risk and needs assessment tool that can be used to
41 classify prisoners consistent with subsection (a)(1), or can be reasonably adapted for such

1 purpose, for purposes of this section, section 3621(h), and section 3624(c).

2 “(c) Risk Assessment.—

3 “(1) INITIAL ASSESSMENTS.—Not later than 30 months after the date on which the
4 Attorney General develops the Assessment System, the Bureau of Prisons shall determine
5 the risk level **and criminogenic needs** of each prisoner using the Assessment System.

6 “(2) REASSESSMENTS AND UPDATES.—The Bureau of Prisons shall update the assessment
7 of each prisoner required under paragraph (1)—

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

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

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

13 “(d) Assignment of Recidivism Reduction Programs or Productive Activities.—The
14 Assessment System shall provide guidance on the kind and amount of recidivism reduction
15 programming or productive activities appropriate for each prisoner.

16 “(e) Bureau of Prisons Training.—The Attorney General shall develop training protocols and
17 programs for Bureau of Prisons officials and employees responsible for administering the
18 Assessment System. Such training protocols shall include a requirement that personnel of the
19 Bureau of Prisons demonstrate competence in using the methodology and procedure developed
20 under this section on a regular basis.

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

24 “(g) Quality Assurance.—In order to ensure that the Bureau of Prisons is using the
25 Assessment System in an appropriate and consistent manner, the Attorney General shall monitor
26 and assess the use of the Assessment System and shall conduct periodic audits of the use of the
27 Assessment System at facilities of the Bureau of Prisons.

28 “(h) Determinations and Classifications Unreviewable.—Subject to any constitutional
29 limitations, there shall be no right of review, right of appeal, cognizable property interest, or
30 cause of action, either administrative or judicial, arising from any determination or classification
31 made by any Federal agency or employee while implementing or administering the Assessment
32 System, or any rules or regulations promulgated under this section.

33 “(i) Definitions.—In this section:

34 “(1) DYNAMIC RISK FACTOR.—The term ‘dynamic risk factor’ means a characteristic or
35 attribute that has been shown to be relevant to assessing risk of recidivism and that can be
36 modified based on a prisoner’s actions, behaviors, or attitudes, including through
37 completion of appropriate programming or other means, in a prison setting.

38 “(2) RECIDIVISM RISK.—The term ‘recidivism risk’ means the likelihood that a prisoner
39 will commit additional crimes for which the prisoner could be prosecuted in a Federal,
40 State, or local court in the United States.

1 “(3) RECIDIVISM REDUCTION PROGRAM; PRODUCTIVE ACTIVITY; RECOVERY
2 PROGRAMMING.—The terms ‘recidivism reduction program’, ‘productive activity’, and
3 ‘recovery programming’ shall have the meaning given such terms in section 3621(h)(8).”.

4 (b) Technical and Conforming Amendment.—The table of sections for subchapter C of
5 chapter 229 of title 18, United States Code, is amended by inserting after the item relating to
6 section 3621 the following:

7 “3621A. Post-sentencing risk and needs assessment system.”.

8 **SEC. 204. PRERELEASE CUSTODY.**

9 (a) In General.—Section 3624(c) of title 18, United States Code, is amended—

10 (1) in paragraph (1), by striking the period at the end of the second sentence and inserting
11 “or home confinement, subject to the limitation that no prisoner may serve more than 10
12 percent of the prisoner’s imposed sentence in home confinement pursuant to this
13 paragraph.”;

14 (2) by striking paragraphs (2) and (3) and inserting the following:

15 “(2) CREDIT FOR RECIDIVISM REDUCTION.—In addition to any time spent in prerelease
16 custody pursuant to paragraph (1), a prisoner shall spend an additional portion of the final
17 months of the prisoner’s sentence, equivalent to the amount of time credit the prisoner has
18 earned pursuant to section 3621(h)(6)(A), in prerelease custody, if—

19 “(A) the prisoner’s most recent risk and needs assessment, conducted within 1 year
20 of the date on which the prisoner would first be eligible for transfer to prerelease
21 custody pursuant to paragraph (1) and this paragraph, reflects that the prisoner is
22 classified as low or moderate risk; and

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

26 “(3) TYPES OF PRERELEASE CUSTODY.—A prisoner eligible to serve a portion of the
27 prisoner’s sentence in prerelease custody pursuant to paragraph (2) may serve such portion
28 in a residential reentry center, on home confinement, or, subject to paragraph (5), on
29 community supervision.”;

30 (3) by redesignating paragraphs (4) through (6) as paragraphs (9) through (11),
31 respectively;

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

33 “(4) HOME CONFINEMENT.—

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

36 “(i) be subject to 24-hour electronic monitoring that enables the prompt
37 identification of any violation of clause (ii);

38 “(ii) remain in the prisoner’s residence, with the exception of the following
39 activities, subject to approval by the Director of the Bureau of Prisons—

1 “(I) participation in a job, job-seeking activities, or job-related activities,
2 including an apprenticeship;

3 “(II) participation in recidivism reduction programming or productive
4 activities assigned by the Post-Sentencing Risk and Needs Assessment
5 System, or similar activities approved in advance by the Director of the
6 Bureau of Prisons;

7 “(III) participation in community service;

8 “(IV) crime victim restoration activities;

9 “(V) medical treatment; or

10 “(VI) religious activities; and

11 “(iii) comply with such other conditions as the Director of the Bureau of
12 Prisons deems appropriate.

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

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

20 “(5) COMMUNITY SUPERVISION.—

21 “(A) TIME CREDIT LESS THAN 36 MONTHS.—Any prisoner described in subparagraph
22 (D) who has earned time credit of less than 36 months pursuant to section
23 3621(h)(6)(A) shall be eligible to serve no more than one-half of the amount of such
24 credit on community supervision, if the prisoner satisfies the conditions set forth in
25 subparagraph (C).

26 “(B) TIME CREDIT OF 36 MONTHS OR MORE.—Any prisoner described in
27 subparagraph (D) who has earned time credit of 36 months or more pursuant to section
28 3621(h)(6)(A) shall be eligible to serve the amount of such credit exceeding 18 months
29 on community supervision, if the prisoner satisfies the conditions set forth in
30 subparagraph (C).

31 “(C) CONDITIONS OF COMMUNITY SUPERVISION.—A prisoner placed on community
32 supervision shall be subject to such conditions as the Director of the Bureau of Prisons
33 deems appropriate. A prisoner on community supervision may remain on community
34 supervision until the conclusion of the prisoner’s sentence of incarceration if the
35 prisoner—

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

37 “(ii) remains current on any financial obligations imposed as part of the
38 prisoner’s sentence, including payments of court-ordered restitution arising from
39 the offense of conviction; and

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

1 “(D) COVERED PRISONERS.—A prisoner described in this subparagraph is a prisoner
2 who—

3 “(i) is classified as low risk by the Post-Sentencing Risk and Needs Assessment
4 System in the assessment conducted for purposes of paragraph (2); or

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

7 “(6) VIOLATIONS.—If a prisoner violates a condition of the prisoner’s prerelease custody,
8 the Director of the Bureau of Prisons may revoke the prisoner’s prerelease custody and
9 require the prisoner to serve the remainder of the prisoner’s term of incarceration, or any
10 portion thereof, in prison, or impose additional conditions on the prisoner’s prerelease
11 custody as the Director of the Bureau of Prisons deems appropriate. If the violation is
12 nontechnical in nature, the Director of the Bureau of Prisons shall revoke the prisoner’s
13 prerelease custody.

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

17 “(8) AGREEMENTS WITH UNITED STATES PROBATION AND PRETRIAL SERVICES.—The
18 Director of the Bureau of Prisons shall, to the greatest extent practicable, enter into
19 agreements with the United States Probation and Pretrial Services to supervise prisoners
20 placed in home confinement or community supervision under this subsection. Such
21 agreements shall authorize United States Probation and Pretrial Services to exercise the
22 authority granted to the Director of the Bureau of Prisons pursuant to paragraphs (4), (5),
23 and (12). Such agreements shall take into account the resource requirements of United
24 States Probation and Pretrial Services as a result of the transfer of Bureau of Prisons
25 inmates to prerelease custody and shall provide for the transfer of monetary sums necessary
26 to comply with such requirements. United States Probation and Pretrial Services shall, to
27 the greatest extent practicable, offer assistance to any prisoner not under its supervision
28 during prerelease custody under this subsection.”; and

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

30 “(12) DETERMINATION OF APPROPRIATE CONDITIONS FOR PRERELEASE CUSTODY.—In
31 determining appropriate conditions for prerelease custody pursuant to this subsection, and in
32 accordance with paragraph (5), the Director of the Bureau of Prisons shall, to the extent
33 practicable, subject prisoners who demonstrate continued compliance with the requirements
34 of such prerelease custody to increasingly less restrictive conditions, so as to most
35 effectively prepare such prisoners for reentry. No prisoner shall be transferred to
36 community supervision unless the length of the prisoner’s eligibility for community
37 supervision pursuant to paragraph (5) is equivalent to or greater than the length of the
38 prisoner’s remaining period of prerelease custody.

39 “(13) ALIENS SUBJECT TO DEPORTATION.—If the prisoner is an alien whose deportation
40 was ordered as a condition of supervised release or who is subject to a detainer filed by
41 Immigration and Customs Enforcement for the purposes of determining the alien’s
42 deportability, the Director of the Bureau of Prisons shall, upon the prisoner’s transfer to
43 prerelease custody pursuant to paragraphs (1) and (2), deliver the prisoner to United States

1 Immigration and Customs Enforcement for the purpose of conducting proceedings relating
2 to the alien's deportation.

3 "(14) NOTICE OF TRANSFER TO PRERELEASE CUSTODY.—

4 "(A) IN GENERAL.—The Director of the Bureau of Prisons may not transfer a
5 prisoner to prerelease custody pursuant to paragraph (2) if the prisoner has been
6 sentenced to a term of incarceration of more than 3 years, unless the Director of the
7 Bureau of Prisons provides prior notice to the sentencing court and the United States
8 Attorney's Office for the district in which the prisoner was sentenced.

9 "(B) TIME REQUIREMENT.—The notice required under subparagraph (A) shall be
10 provided not later than 6 months before the date on which the prisoner is to be
11 transferred.

12 "(C) CONTENTS OF NOTICE.—The notice required under subparagraph (A) shall
13 include the following information:

14 "(i) The amount of credit earned pursuant to paragraph (2).

15 "(ii) The anticipated date of the prisoner's transfer.

16 "(iii) The nature of the prisoner's planned prerelease custody.

17 "(iv) The prisoner's behavioral record.

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

19 "(D) HEARING.—

20 "(i) IN GENERAL.—On motion of the Government, the sentencing court may
21 conduct a hearing on the prisoner's transfer to prerelease custody.

22 "(ii) PRISONER'S PRESENCE.—The prisoner shall have the right to be present at
23 a hearing described in clause (i), unless the prisoner waives such right. The
24 requirement under this clause may be satisfied by the defendant appearing by
25 video teleconference.

26 "(iii) MOTION.—A motion filed by the Government seeking a hearing—

27 "(I) shall set forth the basis for the Government's request that the
28 prisoner's transfer be denied or modified pursuant to subparagraph (E); and

29 "(II) shall not require the Court to conduct a hearing described in clause
30 (i).

31 "**(iv) JUSTICE DEPARTMENT REVIEW OF TRANSFERS TO PRERELEASE**
32 **CUSTODY.—If the Department of Justice does not seek a hearing under this**
33 **subparagraph to deny or modify a prisoner's transfer to prerelease custody,**
34 **the Department of Justice prior to such transfer shall make a determination**
35 **to that effect in writing, including the reasons for that determination.**

36 "(E) DETERMINATION OF THE COURT.—The court may deny the transfer of the
37 prisoner to prerelease custody or modify the terms of such transfer, if, after conducting
38 a hearing pursuant to subparagraph (D), the court finds in writing, by a preponderance
39 of the evidence, that the transfer of the prisoner is inconsistent with the factors

1 specified in paragraphs (2), (6), and (7) of section 3553(a).”.

2 (b) Effective Date.—The amendments made by this section shall take effect 1 year after the
3 date of enactment of this Act.

4 SEC. 205. REPORTS.

5 (a) Annual Reports.—

6 (1) REPORTS.—Not later than 1 year after the date of enactment of this Act, and every
7 year thereafter, the Attorney General, in coordination with the Comptroller General of the
8 United States, shall submit to the appropriate committees of Congress a report that contains
9 the following:

10 (A) A summary of the activities and accomplishments of the Attorney General in
11 carrying out this title and the amendments made by this title.

12 (B) An assessment of the status and use of the Post-Sentencing Risk and Needs
13 Assessment System by the Bureau of Prisons, including the number of prisoners
14 classified at each risk level under the Post-Sentencing Risk and Needs Assessment
15 System at each facility of the Bureau of Prisons.

16 (C) A summary and assessment of the types and effectiveness of the recidivism
17 reduction programs and productive activities in facilities operated by the Bureau of
18 Prisons, including—

19 (i) evidence about which programs and activities have been shown to reduce
20 recidivism;

21 (ii) the capacity of each program and activity at each facility, including the
22 number of prisoners along with the risk level of each prisoner enrolled in each
23 program and activity; and

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

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

28 (i) a summary of the amount of savings resulting from the transfer of prisoners
29 into prerelease custody under this title and the amendments made by this title,
30 including savings resulting from the avoidance or deferral of future construction,
31 acquisition, or operations costs;

32 (ii) a summary of the amount of savings resulting from any decrease in
33 recidivism that may be attributed to the implementation of the Post-Sentencing
34 Risk and Needs Assessment System or the increase in recidivism reduction
35 programs and productive activities required by this title and the amendments
36 made by this title; and

37 (iii) a strategy to reinvest such savings into other Federal, State, and local law
38 enforcement activities and expansions of recidivism reduction programs and
39 productive activities in the Bureau of Prisons.

1 (2) REINVESTMENT OF SAVINGS TO FUND PUBLIC SAFETY PROGRAMMING.—

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

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

6 (ii) use an amount of funds appropriated to the Department of Justice that is not
7 less than 90 percent of the covered amount for the purposes described in
8 subparagraph (C).

9 (B) COVERED AMOUNT.—For purposes of this paragraph, the term “covered amount”
10 means, using the most recent report submitted under paragraph (1), the amount equal
11 to the sum of the amount described in paragraph (1)(D)(i) for the fiscal year and the
12 amount described in paragraph (1)(D)(ii) for the fiscal year.

13 (C) USE OF FUNDS.—The funds described in subparagraph (A)(ii) shall be used,
14 consistent with paragraph (1)(D)(iii), ~~to~~ **to achieve each of the following**
15 **objectives:**

16 ~~(i) ensure~~ **(i) Ensure** that, not later than 6 years after the date of enactment of
17 this Act, recidivism reduction programs or productive activities are available to all
18 eligible prisoners;

19 (ii) ~~ensure~~ **Ensure** compliance with the resource needs of United States
20 Probation and Pretrial Services resulting from an agreement under section
21 3624(c)(8) of title 18, United States Code, as added by this title; ~~and~~.

22 (iii) ~~supplement~~ **Supplement** funding for programs that increase public safety
23 by providing resources to State and local law enforcement officials, including for
24 the adoption of innovative technologies and information sharing capabilities.

25 (b) Prison Work Programs Report.—Not later than 180 days after the date of enactment of this
26 Act, the Attorney General shall submit to the appropriate committees of Congress a report on the
27 status of prison work programs at facilities operated by the Bureau of Prisons, including—

28 (1) a strategy to expand the availability of such programs without reducing job
29 opportunities for workers in the United States who are not in the custody of the Bureau of
30 Prisons;

31 (2) an assessment of the feasibility of expanding such programs, consistent with the
32 strategy required under paragraph (1), so that, not later than 5 years after the date of
33 enactment of this Act, not less than 75 percent of eligible low-risk offenders have the
34 opportunity to participate in a prison work program for not less than 20 hours per week; and

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

37 (c) Reporting on Recidivism Rates.—

38 (1) IN GENERAL.—Beginning 1 year after the date of enactment of this Act, and every
39 year thereafter, the Attorney General, in consultation with the Administrative Office of the
40 United States Courts, shall report to the appropriate committees of Congress on rates of

1 recidivism among individuals who have been released from Federal prison and who are
2 under judicial supervision.

3 (2) CONTENTS.—The report required under paragraph (1) shall contain information on
4 rates of recidivism among former Federal prisoners, including information on rates of
5 recidivism among former Federal prisoners based on the following criteria:

6 (A) Primary offense charged.

7 (B) Length of sentence imposed and served.

8 (C) Bureau of Prisons facility or facilities in which the prisoner’s sentence was
9 served.

10 (D) Recidivism reduction programming that the prisoner successfully completed, if
11 any.

12 (E) The prisoner’s assessed risk of recidivism.

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

16 (d) Reporting on Excluded Prisoners.—Not later than 8 years after the date of enactment of
17 this Act, the Attorney General shall submit to the appropriate committees of Congress a report on
18 the effectiveness of recidivism reduction programs and productive activities offered to prisoners
19 described in section 3621(h)(6)(A)(iii) of title 18, United States Code, as added by this title, as
20 well as those ineligible for credit toward prerelease custody under section 3624(c)(2) of title 18,
21 United States Code, as added by this title, which shall review the effectiveness of different
22 categories of incentives in reducing recidivism.

23 (e) Definition.—The term “appropriate committees of Congress” means—

24 (1) the Committee on the Judiciary and the Subcommittee on Commerce, Justice,
25 Science, and Related Agencies of the Committee on Appropriations of the Senate; and

26 (2) the Committee on the Judiciary and the Subcommittee on Commerce, Justice,
27 Science, and Related Agencies of the Committee on Appropriations of the House of
28 Representatives.

29 **SEC. 206. ADDITIONAL TOOLS TO PROMOTE**
30 **RECOVERY AND PREVENT DRUG AND ALCOHOL**
31 **ABUSE AND DEPENDENCE.**

32 (a) Reentry and Recovery Planning.—

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

34 (A) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e),
35 respectively;

36 (B) by inserting after subsection (a) the following:

37 “(b) Reentry and Recovery Planning.—

1 “(1) IN GENERAL.—In addition to the information required by rule 32(d) of the Federal
2 Rules of Criminal Procedure, the report submitted pursuant to subsection (a) shall contain
3 the following information, unless such information is required to be excluded pursuant to
4 rule 32(d)(3) of the Federal Rules of Criminal Procedure or except as provided in paragraph
5 (2):

6 “(A) Information about the defendant’s history of substance abuse and addiction, if
7 applicable.

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

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

13 “(i) reduce the likelihood the defendant will abuse drugs or alcohol if the
14 defendant has a history of substance abuse;

15 “(ii) reduce the defendant’s likelihood of recidivism by addressing the
16 defendant’s specific recidivism risk factors; and

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

18 “(2) EXCEPTIONS.—The information described in paragraph (1)(C)(iii) shall not be
19 required to be included under paragraph (1), in the discretion of the Probation Officer, if the
20 applicable sentencing range under the sentencing guidelines, as determined by the probation
21 officer, includes a sentence of life imprisonment or a sentence of probation.”;

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

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

26 (2) TECHNICAL AND CONFORMING AMENDMENT.—Section 3672 of title 18, United States
27 Code, is amended in the eighth undesignated paragraph by striking “subsection (b) or (c)”
28 and inserting “subsection (c) or (d)”.

29 (b) Promoting Full Utilization of Residential Drug Treatment.—Section 3621(e)(2) of title 18,
30 United States Code, is amended by adding at the end the following:

31 “(C) COMMENCEMENT OF TREATMENT.—Not later than 3 years after the date of
32 enactment of this subparagraph, the Director of the Bureau of Prisons shall ensure that
33 each eligible prisoner has an opportunity to commence participation in treatment under
34 this subsection by such date as is necessary to ensure that the prisoner completes such
35 treatment not later than 1 year before the date on which the prisoner would otherwise
36 be released from custody prior to the application of any reduction in sentence pursuant
37 to this paragraph.

38 “(D) OTHER CREDITS.—The Director of the Bureau of Prisons may, in the Director’s
39 discretion, reduce the credit awarded under subsection (h)(6)(A) to a prisoner who
40 receives a reduction under subparagraph (B), but such reduction may not exceed
41 one-half the amount of the reduction awarded to the prisoner under subparagraph (B).”.

1 (c) Supervised Release Pilot Program To Reduce Recidivism and Improve Recovery From
2 Alcohol and Drug Abuse.—

3 (1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the
4 Administrative Office of the United States Courts shall establish a recidivism reduction and
5 recovery enhancement pilot program, premised on high-intensity supervision and the use of
6 swift, predictable, and graduated sanctions for noncompliance with program rules, in
7 Federal judicial districts selected by the Administrative Office of the United States Courts
8 in consultation with the Attorney General.

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

11 (A) Upon entry into the pilot program, the court shall notify program participants of
12 the rules of the program and consequences for violating such rules, including the
13 penalties to be imposed as a result of such violations pursuant to subparagraph (E).

14 (B) Probation officers shall conduct regular drug testing of all pilot program
15 participants with a history of substance abuse.

16 (C) In the event that a probation officer determines that a participant has violated a
17 term of supervised release, the officer shall notify the court within 24 hours of such
18 determination, absent good cause.

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

22 (E) If the court determines that a program participant has violated a term of
23 supervised release, it shall impose an appropriate sanction, which may include the
24 following, if appropriate:

25 (i) Modification of the terms of such participant's supervised release, which
26 may include imposition of a period of home confinement.

27 (ii) Referral to appropriate substance abuse treatment.

28 (iii) Revocation of the defendant's supervised release and the imposition of a
29 sentence of incarceration that is no longer than necessary to punish the participant
30 for such violation and deter the participant from committing future violations.

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

33 (3) STATUS OF PARTICIPANT IF INCARCERATED.—

34 (A) IN GENERAL.—In the event that a program participant is sentenced to
35 incarceration as described in paragraph (2)(E)(iii), the participant shall remain in the
36 program upon release from incarceration unless terminated from the program in
37 accordance with paragraph (2)(E)(iv).

38 (B) POLICIES FOR MAINTAINING EMPLOYMENT.—The Bureau of Prisons, in
39 consultation with the Chief Probation Officers of the Federal judicial districts selected
40 for participation in the pilot program required under paragraph (1), shall develop

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

5 (4) ADVISORY SENTENCING POLICIES.—

6 (A) IN GENERAL.—The United States Sentencing Commission, in consultation with
7 the Chief Probation Officers, the United States Attorneys, Federal Defenders, and
8 Chief Judges of the districts selected for participation in the pilot program required
9 under paragraph (1), shall establish advisory sentencing policies to be used by the
10 district courts in imposing sentences of incarceration in accordance with paragraph
11 (2)(E).

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

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

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

20 (A) IN GENERAL.—Not later than 6 years after the date of enactment of this Act, the
21 Administrative Office of the United States Courts shall conduct an evaluation of the
22 pilot program and submit to Congress a report on the results of the evaluation.

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

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

25 (ii) the rates of violations of the terms of supervised release by program
26 participants, and sanctions imposed;

27 (iii) information about employment of program participants;

28 (iv) a comparison of outcomes among program participants with outcomes
29 among similarly situated individuals under the supervision of United States
30 Probation and Pretrial Services not participating in the program; and

31 (v) an assessment of the effectiveness of each of the relevant features of the
32 program.

33 **SEC. 207. ERIC WILLIAMS CORRECTIONAL OFFICER**
34 **PROTECTION ACT.**

35 (a) In General.—Chapter 303 of title 18, United States Code, is amended by adding at the end
36 the following:

37 “4049. Officers and employees of the Bureau of Prisons
38 authorized to carry oleoresin capsicum spray

1 “(a) In General.—The Director of the Bureau of Prisons shall issue, on a routine basis,
2 oleoresin capsicum spray to—

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

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

5 “(B) may respond to an emergency situation in such a prison; and

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

8 “(b) Training Requirement.—

9 “(1) IN GENERAL.—In order for an officer or employee of the Bureau of Prisons,
10 including a correctional officer, to be eligible to receive and carry oleoresin capsicum spray
11 pursuant to this section, the officer or employee shall complete a training course before
12 being issued such spray, and annually thereafter, on the use of oleoresin capsicum spray.

13 “(2) TRANSFERABILITY OF TRAINING.—An officer or employee of the Bureau of Prisons
14 who completes a training course pursuant to paragraph (1) and subsequently transfers to
15 employment at a different prison, shall not be required to complete an additional training
16 course solely due such transfer.

17 “(3) TRAINING CONDUCTED DURING REGULAR EMPLOYMENT.—An officer or employee of
18 the Bureau of Prisons who completes a training course required under paragraph (1) shall do
19 so during the course of that officer or employee’s regular employment, and shall be
20 compensated at the same rate that the officer or employee would be compensated for
21 conducting the officer or employee’s regular duties.

22 “(c) Use of Oleoresin Capsicum Spray.—Officers and employees of the Bureau of Prisons
23 issued oleoresin capsicum spray pursuant to subsection (a) may use such spray to reduce acts of
24 violence—

25 “(1) committed by prisoners against themselves, other prisoners, prison visitors, and
26 officers and employees of the Bureau of Prisons; and

27 “(2) committed by prison visitors against themselves, prisoners, other visitors, and
28 officers and employees of the Bureau of Prisons.”

29 (b) Clerical Amendment.—The table of sections for chapter 303 of part III of title 18, United
30 States Code, is amended by inserting after the item relating to section 4048 the following:

31 “4049. Officers and employees of the Bureau of Prisons authorized to carry oleoresin capsicum
32 spray.”

33 (c) ~~GAO Report.—Not BOP Evaluation.—~~**Not** later than the date that is 3 years after the date
34 on which the Director of the Bureau of Prisons begins to issue oleoresin capsicum spray to
35 officers and employees of the Bureau of Prisons pursuant to section 4049 of title 18, United
36 States Code (as added by this title), the ~~Comptroller General of the United States~~ **Director of the**
37 **Bureau of Prisons** shall submit to Congress a report that includes the following:

38 (1) An evaluation of the effectiveness of issuing oleoresin capsicum spray to officers and
39 employees of the Bureau of Prisons in prisons that are not minimum or low security prisons
40 ~~on~~, **which shall include such metrics as—**

1 ~~(A) reducing crime in such prisons; and~~

2 ~~(B)~~(A) reducing acts of violence committed by prisoners against themselves, other
3 prisoners, prison visitors, and officers and employees of the Bureau of Prisons in such
4 prisons; **and**

5 **(B) other metrics determined relevant by the Director.:-**

6
7 (2) An evaluation of the advisability of issuing oleoresin capsicum spray to officers and
8 employees of the Bureau of Prisons in prisons that are minimum or low security prisons,
9 including—

10 (A) the effectiveness that issuing such spray in such prisons would have on reducing
11 acts of violence committed by prisoners against themselves, other prisoners, prison
12 visitors, and officers and employees of the Bureau of Prisons in such prisons; and

13 (B) the cost of issuing such spray in such prisons. Recommendations to improve the
14 safety of officers and employees of the Bureau of Prisons in prisons.

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

20 SEC. 208. PROMOTING SUCCESSFUL REENTRY.

21 (a) Federal Reentry Demonstration Projects.—

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

25 (A) evaluate best practices used for the reentry into society of individuals released
26 from the custody of the Bureau of Prisons, including—

27 (i) conducting examinations of reentry practices in **Federal**, State, and local
28 justice systems; and

29 (ii) consulting with Federal, State, and local prosecutors, Federal, State, and
30 local public defenders, nonprofit organizations that provide reentry services, and
31 criminal justice experts; and

32 (B) submit to the Committee on the Judiciary of the Senate and the Committee on
33 the Judiciary of the House of Representatives a report that details the evaluation
34 conducted under subparagraph (A).

35 (2) CREATION OF REENTRY DEMONSTRATION PROJECTS.—Not later than 3 years after the
36 date of enactment of this Act, the Attorney General, in consultation with the Administrative
37 Office of the United States Courts, shall, subject to the availability of appropriations, select
38 an appropriate number of Federal judicial districts to conduct Federal reentry demonstration
39 projects using the best practices identified in the evaluation conducted under paragraph (1),

1 **which may include Federal judicial districts with existing reentry programs.** The
2 Attorney General shall determine the appropriate number of Federal judicial districts to
3 conduct demonstration projects under this paragraph.

4 (3) PROJECT DESIGN.—For each Federal judicial district selected under paragraph (2), the
5 United States Attorney, in consultation with the Chief Judge, Chief Federal Defender, the
6 Chief Probation Officer, the Bureau of Justice Assistance, the National Institute of Justice,
7 and criminal justice experts shall design a Federal reentry demonstration project for the
8 Federal judicial district in accordance with paragraph (4).

9 (4) PROJECT ELEMENTS.—A project designed under paragraph (3) shall coordinate efforts
10 by Federal agencies to assist participating prisoners in preparing for and adjusting to reentry
11 into the community and may include, as appropriate—

12 (A) the use of community correctional facilities and home confinement, as
13 determined to be appropriate by the Bureau of Prisons;

14 (B) a reentry review team for each prisoner to develop a reentry plan specific to the
15 needs of the prisoner, and to meet with the prisoner following transfer to monitor the
16 reentry plan;

17 (C) steps to assist the prisoner in obtaining health care, housing, and employment,
18 before the prisoner’s release from a community correctional facility or home
19 confinement;

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

21 (E) substance abuse treatment, which may include addiction treatment medication, if
22 appropriate, medical treatment, including mental health treatment, occupational,
23 vocational and educational training, apprenticeships, life skills instruction, recovery
24 support, conflict resolution training, and other programming to promote effective
25 reintegration into the community;

26 (F) the participation of volunteers to serve as advisors and mentors to prisoners
27 being released into the community;

28 (G) steps to ensure that the prisoner makes satisfactory progress toward satisfying
29 any obligations to victims of the prisoner’s offense, including any obligation to pay
30 restitution; and

31 (H) the appointment of a reentry coordinator in the United States Attorney’s Office.

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

35 (A) evaluate the results from each Federal judicial district selected under paragraph
36 (2), including the extent to which participating prisoners released from the custody of
37 the Bureau of Prisons were successfully reintegrated into their communities, including
38 whether the participating prisoners maintained employment, and refrained from
39 committing further offenses; and

40 (B) submit to the Committee on the Judiciary of the Senate and the Committee on
41 the Judiciary of the House of Representatives a report that contains—

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

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

4 (b) Study on the Impact of Reentry on Certain Communities.—

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

11 (2) CONTENTS.—The report required under paragraph (1) shall analyze the impact of
12 reentry of individuals released from both State and Federal correctional systems as well as
13 State and Federal juvenile justice systems, and shall include—

14 (A) an assessment of the reentry burdens borne by local communities **and local law**
15 **enforcement agencies;**

16 (B) a review of the resources available in such communities to support successful
17 reentry, including resources provided by State, local, and Federal governments, the
18 extent to which those resources are used effectively; and

19 (C) recommendations to strengthen the resources in such communities available to
20 support successful reentry and to lessen the burden placed on such communities by the
21 need to support reentry.

22 (c) Facilitating Reentry Assistance to Veterans.—

23 (1) IN GENERAL.—Not later than 2 months after the date of the commencement of a
24 prisoner's sentence pursuant to section 3585(a) of title 18, United States Code, the Director
25 of the Bureau of Prisons shall notify the Secretary of Veterans Affairs if the prisoner's
26 presentence report, prepared pursuant to section 3552 of title 18, United States Code,
27 indicates that the prisoner has previously served in the Armed Forces of the United States or
28 if the prisoner has so notified the Bureau of Prisons.

29 (2) POST-COMMENCEMENT NOTICE.—If the prisoner informs the Bureau of Prisons of the
30 prisoner's prior service in the Armed Forces of the United States after the commencement
31 of the prisoner's sentence, the Director of the Bureau of Prisons shall notify the Secretary of
32 Veterans Affairs not later than 2 months after the date on which the prisoner provides such
33 notice.

34 (3) CONTENTS OF NOTICE.—The notice provided by the Director of the Bureau of Prisons
35 to the Secretary of Veterans Affairs under this subsection shall include the identity of the
36 prisoner, the facility in which the prisoner is located, the prisoner's offense of conviction,
37 and the length of the prisoner's sentence.

38 (4) ACCESS TO VA.—The Bureau of Prisons shall provide the Department of Veterans
39 Affairs with reasonable access to any prisoner who has previously served in the Armed
40 Forces of the United States for purposes of facilitating that prisoner's reentry.

1 **SEC. 209. PAROLE FOR JUVENILES.**

2 (a) In General.—Chapter 403 of title 18, United States Code, is amended by inserting after
3 section 5032 the following:

4 **“5032A. Modification of an imposed term of imprisonment for**
5 **violations of law committed prior to age 18**

6 “(a) In General.—Notwithstanding any other provision of law, a court may reduce a term of
7 imprisonment imposed upon a defendant convicted as an adult for an offense committed and
8 completed before the defendant attained 18 years of age if—

9 “(1) the defendant has served 20 years in ~~prison~~ **custody** for the offense; and

10 “(2) the court finds, after considering the factors set forth in subsection (c), that the
11 defendant is not a danger to the safety of any person or the community and that the interests
12 of justice warrant a sentence modification.

13 “(b) Supervised Release.—Any defendant whose sentence is reduced pursuant to subsection
14 (a) shall be ordered to serve a period of supervised release of not less than 5 years following
15 release from imprisonment. The conditions of supervised release and any modification or
16 revocation of the term of supervise release shall be in accordance with section 3583.

17 “(c) Factors and Information To Be Considered in Determining Whether To Modify a Term of
18 Imprisonment.—The court, in determining whether to reduce a term of imprisonment pursuant to
19 subsection (a), shall consider—

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

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

23 “(3) a report and recommendation of the Bureau of Prisons, including information on
24 whether the defendant has substantially complied with the rules of each institution to which
25 the defendant has been confined and whether the defendant has completed any educational,
26 vocational, or other prison program, where available;

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

29 “(5) whether the defendant has demonstrated maturity, rehabilitation, and a fitness to
30 reenter society sufficient to justify a sentence reduction;

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

34 “(7) any report of physical, mental, or psychiatric examination of the defendant
35 conducted by a licensed health care professional;

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

38 “(9) the extent of the role of the defendant in the offense and whether, and to what extent,

1 an adult was involved in the offense;

2 “(10) the diminished culpability of juveniles as compared to that of adults, and the
3 hallmark features of youth, including immaturity, impetuosity, and failure to appreciate
4 risks and consequences, which counsel against sentencing them to the otherwise applicable
5 term of imprisonment; and

6 “(11) any other information the court determines relevant to the decision of the court.

7 “(d) Limitation on Applications Pursuant to This Section.—

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

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

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

16 “(e) Procedures.—

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

18 “(A) any defendant who has served 19 years in prison for an offense committed and
19 completed prior to the defendant’s 18th birthday for which the defendant was
20 convicted as an adult; and

21 “(B) the sentencing court, the United States attorney, and the Federal Public
22 Defender or Executive Director of the Community Defender Organization for the
23 judicial district in which the sentence described in subparagraph (A) was imposed.

24 “(2) CRIME VICTIMS RIGHTS.—Upon receiving noticed under paragraph (1), the United
25 States attorney shall provide any notifications required under section 3771.

26 “(3) APPLICATION.—

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

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

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

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

37 “(B) HEARING.—

38 “(i) IN GENERAL.—The court shall conduct a hearing on the motion, at which
39 the defendant and counsel for the defendant shall be given the opportunity to be

1 heard.

2 “(ii) EVIDENCE.—In a hearing under this section, the court may allow for
3 parties to present evidence.

4 “(iii) DEFENDANT’S PRESENCE.—At a hearing under this section, the defendant
5 shall be present unless the defendant waives the right to be present. The
6 requirement under this clause may be satisfied by the defendant appearing by
7 video teleconference.

8 “(iv) COUNSEL.—A defendant who is unable to obtain counsel is entitled to
9 have counsel appointed to represent the defendant for proceedings under this
10 section, including any appeal, unless the defendant waives the right to counsel.

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

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

17 “(f) Educational and Rehabilitative Programs.—A defendant who is convicted and sentenced
18 as an adult for an offense committed and completed before the defendant attained 18 years of age
19 may not be deprived of any educational, training, or rehabilitative program that is otherwise
20 available to the general prison population.”.

21 (b) Table of Sections.—The table of sections for chapter 403 of title 18, United States Code, is
22 amended by inserting after the item relating to section 5032 the following:

23 “5032A. Modification of an imposed term of imprisonment for violations of law committed prior
24 to age 18.”.

25 (c) Applicability.—The amendments made by this section shall apply to any conviction
26 entered before, on, or after the date of enactment of this Act.

27 SEC. 210. COMPASSIONATE RELEASE INITIATIVE.

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

29 (1) in paragraph ~~(1)~~(1)—

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

32 (B) in subparagraph (B), by inserting “, upon written request from either the
33 Bureau of Prisons or an eligible aging elderly offender or eligible terminally ill
34 offender” after “to home detention”;

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

37 (3) in paragraph (3), by striking “and shall be carried out during fiscal years 2009 and
38 2010”;

39 ~~and~~(4) in paragraph (4)—

1 ~~(3) in paragraph (5)(A)~~—**(A) by inserting “or eligible terminally ill offender”**
2 **after “each eligible elderly offender”; and**

3 ~~(A)(B)~~ **by inserting “and eligible terminally ill offenders” after “eligible elderly**
4 **offenders”; and**

5 **(5) in paragraph (5)—**

6 **(A) in subparagraph (A)—**

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

8 ~~(B)(ii)~~ **in clause (ii)—**

9 ~~(i)(I)~~ **by striking “the greater of 10 years or”; and**

10 ~~(ii)(II)~~ **by striking “75 percent” and inserting “ $\frac{2}{3}$ ”;**

11 ~~(C)(iii)~~ **in clause (vi), by striking “and” at the end; and**

12 ~~(iv)(D)~~ **in clause (vii), by striking the period at the end and inserting “; and”;**
13 **and**

14 ~~(E)(B)~~ **by adding at the end the following:**

15 ~~“(viii) who—~~ **“(D) ELIGIBLE TERMINALLY ILL OFFENDER.—The term ‘eligible**
16 **terminally ill offender’ means an offender in the custody of the Bureau of Prisons**
17 **who—**

18 ~~“(I) is receiving or in medical”~~ **“(i) is serving a term of imprisonment based on**
19 **conviction for an offense or offenses that do not include any crime of violence**
20 **(as defined in section 16 of title 18, United States Code), sex offense (as**
21 **defined in section 111(5) of the Sex Offender Registration and Notification**
22 **Act (42 U.S.C. 16911(5)), offense described in section 2332b(g)(5)(B) of title**
23 **18, United States Code, or offense under chapter 37 of title 18, United States**
24 **Code;**

25 **“(ii) satisfies the criteria specified in clauses (iii) through (viii) of**
26 **subparagraph (A); and**

27 **“(iii) has been determined by a medical doctor approved by the Bureau of**
28 **Prisons to be—**

29 **“(I) in need of care at a nursing home, intermediate care facility, or**
30 **assisted living facility, as those terms are defined in section 232 of the**
31 **National Housing Act (12 U.S.C. 1715w); or**

32 ~~“(II) has been diagnosed with a terminal illness.”.~~

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

34 **(a) Purpose.—The purpose of this section is to—**

35 **(1) protect children and adults against damage stemming from their juvenile acts and**
36 **subsequent juvenile delinquency records, including law enforcement, arrest, and court**
37 **records; and**

1 (2) prevent the unauthorized use or disclosure of confidential juvenile delinquency
2 records and any potential employment, financial, psychological, or other harm that would
3 result from such unauthorized use or disclosure.

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

5 “5031. Definitions

6 “In this chapter—

7 “(1) the term ‘adjudication’ means a determination by a judge that a person committed an
8 act of juvenile delinquency;

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

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

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

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

17 “(6) the term ‘expungement petition’ means a petition for expungement filed under
18 section 5044(b);

19 “(7) the term ‘juvenile’ means—

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

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

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

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

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

30 “(i) a criminal homicide, forcible rape or any other sex offense (as defined in
31 section 111 of the Sex Offender Registration and Notification Act (42 U.S.C.
32 16911)), kidnapping, aggravated assault, robbery, burglary of an occupied
33 structure, arson, or a drug trafficking crime in which a firearm was used; or

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

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

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

1 “(ii) a misdemeanor crime of domestic violence (as defined in section
2 921(a)(33));

3 “(10) the term ‘juvenile record’—

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

7 “(B) includes—

8 “(i) a juvenile legal file, including a formal document such as a petition, notice,
9 motion, legal memorandum, order, or decree;

10 “(ii) a social record, including—

11 “(I) a record of a probation officer;

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

14 “(III) a medical record;

15 “(IV) a psychiatric or psychological record;

16 “(V) a birth certificate;

17 “(VI) an education record, including an individualized education plan;

18 “(VII) a detention record;

19 “(VIII) demographic information that identifies a juvenile or the family of
20 a juvenile; or

21 “(IX) any other record that includes personally identifiable information
22 that may be associated with a juvenile delinquency proceeding, an act of
23 juvenile delinquency, or an alleged act of juvenile delinquency; and

24 “(iii) a law enforcement record, including a photograph or a State criminal
25 justice information system record; and

26 “(C) does not include—

27 “(i) fingerprints; or

28 “(ii) a DNA sample;

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

31 “(12) the term ‘seal’ means—

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

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

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

1 “(14) the term ‘sealing petition’ means a petition for a sealing order filed under section
2 5043(b).”.

3 (c) Confidentiality.—Section 5038 of title 18, United States Code, is amended—

4 (1) in subsection (a), in the flush text following paragraph (6), by inserting after
5 “bonding,” the following: “participation in an educational system,”; and

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

9 (d) Sealing; Expungement.—

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

12 “5043. Sealing

13 “(a) Automatic Sealing of Nonviolent Offenses.—

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

19 “(A) has not been convicted of a crime or adjudicated delinquent for an act of
20 juvenile delinquency since the date of the disposition; and

21 “(B) is not engaged in active criminal court proceedings or juvenile delinquency
22 proceedings.

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

25 “(3) NOTICE OF AUTOMATIC SEALING.—A court that orders the sealing of a juvenile
26 record of a person under paragraph (1) shall, in writing, inform the person of the sealing and
27 the benefits of sealing the record.

28 “(b) Petitioning for Early Sealing of Nonviolent Offenses.—

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

30 “(A) IN GENERAL.—During the 3-year period beginning on the date on which a
31 person who is adjudicated delinquent under this chapter for a juvenile nonviolent
32 offense completes every term of probation, official detention, or juvenile delinquent
33 supervision ordered by the court with respect to the offense, the person may petition
34 the court to seal the juvenile records that relate to the offense unless the person—

35 “(i) has been convicted of a crime or adjudicated delinquent for an act of
36 juvenile delinquency since the date of the disposition; or

37 “(ii) is engaged in active criminal court proceedings or juvenile delinquency
38 proceedings.

1 “(B) NOTICE OF OPPORTUNITY TO FILE PETITION.—If a person is adjudicated
2 delinquent for a juvenile nonviolent offense, the court in which the person is
3 adjudicated delinquent shall, in writing, inform the person of the potential eligibility of
4 the person to file a sealing petition with respect to the offense upon completing every
5 term of probation, official detention, or juvenile delinquent supervision ordered by the
6 court with respect to the offense, and the necessary procedures for filing the sealing
7 petition—

8 “(i) on the date on which the individual is adjudicated delinquent; and

9 “(ii) on the date on which the individual has completed every term of probation,
10 official detention, or juvenile delinquent supervision ordered by the court with
11 respect to the offense.

12 “(2) PROCEDURES.—

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

16 “(i) to the Attorney General; and

17 “(ii) upon the request of the petitioner, to any other individual that the
18 petitioner determines may testify as to—

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

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

21 “(B) HEARING.—

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

23 “(I) except as provided in clause (iii), conduct a hearing in accordance
24 with clause (ii); and

25 “(II) determine whether to enter a sealing order for the person in
26 accordance with subparagraph (C).

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

28 “(I) PETITIONER.—The petitioner may testify or offer evidence at the
29 sealing hearing in support of sealing.

30 “(II) PROSECUTOR.—The Attorney General may send a representative to
31 testify or offer evidence at the sealing hearing in support of or against
32 sealing.

33 “(III) OTHER INDIVIDUALS.—An individual who receives notice under
34 subparagraph (A)(ii) may testify or offer evidence at the sealing hearing as to
35 the issues described in subclauses (I) and (II) of that subparagraph.

36 “(iii) WAIVER OF HEARING.—If the petitioner and the Attorney General so
37 agree, the court shall make a determination under subparagraph (C) without a
38 hearing.

39 “(C) BASIS FOR DECISION.—The court shall determine whether to grant the sealing

1 petition after considering—

2 “(i) the sealing petition and any documents in the possession of the court;

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

5 “(iii) the best interests of the petitioner;

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

8 “(v) the nature of the juvenile nonviolent offense;

9 “(vi) the disposition of the case;

10 “(vii) the manner in which the petitioner participated in any court-ordered
11 rehabilitative programming or supervised services;

12 “(viii) the length of the time period during which the petitioner has been
13 without contact with any court or law enforcement agency;

14 “(ix) whether the petitioner has had any criminal or juvenile delinquency
15 involvement since the disposition of the juvenile delinquency proceeding; and

16 “(x) the adverse consequences the petitioner may suffer if the petition is not
17 granted.

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

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

24 “(F) NO FEE FOR INDIGENT PETITIONERS.—If the court determines that the petitioner
25 is indigent, there shall be no cost for filing a sealing petition.

26 “(G) REPORTING.—Not later than 2 years after the date of enactment of this section,
27 and each year thereafter, the Director of the Administrative Office of the United States
28 Courts shall issue a public report that—

29 “(i) describes—

30 “(I) the number of sealing petitions granted and denied under this
31 subsection; and

32 “(II) the number of instances in which the Attorney General supported or
33 opposed a sealing petition;

34 “(ii) includes any supporting data that the Director determines relevant and that
35 does not name any petitioner; and

36 “(iii) disaggregates all relevant data by race, ethnicity, gender, and the nature of
37 the offense.

38 “(H) PUBLIC DEFENDER ELIGIBILITY.—

1 “(i) PETITIONERS UNDER AGE 18.—The district court shall appoint counsel in
2 accordance with the plan of the district court in operation under section 3006A to
3 represent a petitioner for purposes of this subsection if the petitioner is less than
4 18 years of age.

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

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

10 “(II) CONSIDERATIONS.—In determining whether to appoint counsel under
11 subclause (I), the court shall consider—

12 “(aa) the anticipated complexity of the sealing hearing, including the
13 number and type of witnesses called to advocate against the sealing of
14 the records of the petitioner; and

15 “(bb) the potential for adverse testimony by a victim or a
16 representative of the Attorney General.

17 “(c) Effect of Sealing Order.—

18 “(1) PROTECTION FROM PERJURY LAWS.—~~EXCEPT DISCLOSURE.—~~**Except** as provided in
19 ~~paragraph (4)(C)(i)~~ **paragraphs (3) and (4)**, if a court orders the sealing of a juvenile
20 record of a person under subsection (a) or (b) with respect to a juvenile nonviolent offense,
21 ~~the person shall not be held under any provision of law to be guilty of perjury, false~~
22 ~~swearing, or making a false statement by reason of the person’s failure to recite or~~
23 ~~acknowledge the offense and any arrest, juvenile delinquency proceeding, adjudication, or~~
24 ~~other result of such proceeding relating to the offense in response to an inquiry made of the~~
25 ~~person for any purpose.~~ **proceedings in the case shall be deemed never to have occurred,**
26 **and the person may properly reply accordingly to any inquiry about the events the**
27 **records of which are ordered sealed.**

28 “(2) VERIFICATION OF SEALING.—If a court orders the sealing of a juvenile record under
29 subsection (a) or (b) with respect to a juvenile nonviolent offense, the court shall—

30 “(A) send a copy of the sealing order to each entity or person known to the court that
31 possesses a record relating to the offense, including each—

32 “(i) law enforcement agency; and

33 “(ii) public or private correctional or detention facility;

34 “(B) in the sealing order, require each entity or person described in subparagraph
35 (A) to—

36 “(i) seal the record; and

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

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

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

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

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

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

10 “(ii) for investigatory or prosecutorial purposes ~~within the juvenile justice-~~
11 ~~system~~; or

12 “(iii) for a background check that relates to—

13 “(I) law enforcement employment; or

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

15 “(aa) national security position; or

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

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

21 “(4) PROHIBITION ON DISCLOSURE.—

22 “(A) PROHIBITION.—Except as provided in subparagraph (C), it shall be unlawful to
23 intentionally make or attempt to make an unauthorized disclosure of any information
24 from a sealed juvenile record in violation of this section.

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

27 “(C) EXCEPTIONS.—

28 “(i) BACKGROUND CHECKS.—In the case of a background check for law
29 enforcement employment or for any employment that requires a government
30 security clearance—

31 “(I) a person who is the subject of a juvenile record sealed under this
32 section shall disclose the contents of the record; and

33 “(II) a law enforcement agency that possesses a juvenile record sealed
34 under this section—

35 “(aa) may disclose the contents of the record; and

36 “(bb) if the agency obtains or is subject to a court order authorizing
37 disclosure of the record, may disclose the record.

38 “(ii) DISCLOSURE TO ARMED FORCES.—A person, including a law enforcement

1 agency that possesses a juvenile record sealed under this section, may disclose
2 information from a juvenile record sealed under this section to the Secretaries of
3 the military departments (or the Secretary of Homeland Security with respect to
4 the Coast Guard when it is not operating as a service in the Navy) for the purpose
5 of vetting an enlistment or commission, or with regard to any member of the
6 Armed Forces.

7 “(iii) CRIMINAL AND JUVENILE PROCEEDINGS.—A prosecutor **or other law**
8 **enforcement officer** may disclose information from a juvenile record sealed
9 under this section, **and a person who is the subject of a juvenile record sealed**
10 **under this section may be required to testify or otherwise disclose**
11 **information about the record, in a criminal or other proceeding if such**
12 **disclosure is required by the Constitution of the United States, the**
13 **constitution of a State, or a Federal or State statute or rule.** ~~if the information~~
14 ~~pertains to a potential witness in a Federal or State—~~

15 ~~“(I) criminal proceeding; or~~

16 ~~“(II) juvenile delinquency proceeding.~~

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

20 “(d) Limitation Relating to Subsequent Incidents.—

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

26 “(2) AFTER PETITION GRANTED.—If, on or after the date on which a court orders the
27 sealing of a juvenile record of a person under subsection (b), the person is convicted of a
28 crime, ~~or adjudicated delinquent for an act of juvenile delinquency, or engaged in active~~
29 ~~criminal court proceedings or juvenile delinquency proceedings—~~ **delinquency—**

30 “(A) the court shall—

31 “(i) vacate the order; and

32 “(ii) notify the person who is the subject of the juvenile record, and each entity
33 or person described in subsection (c)(2)(A), that the order has been vacated; and

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

35 “(e) Inclusion of State Juvenile Delinquency Adjudications and Proceedings.—For purposes
36 of subparagraphs (A) and (B) of subsection (a)(1), clauses (i) and (ii) of subsection (b)(1)(A),
37 and paragraphs (1) and (2) of subsection (d), the term ‘juvenile delinquency’ includes the
38 violation of a law of a State committed by a person before attaining the age of 18 which would
39 have been a crime if committed by an adult.

40 “5044. Expungement

1 “(a) Automatic Expungement of Certain Records.—

2 “(1) ATTORNEY GENERAL MOTION.—

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

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

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

24 “(2) DISMISSED CASES.—If a district court of the United States dismisses an information
25 with respect to a juvenile under this chapter or finds a juvenile not to be delinquent in a
26 juvenile delinquency proceeding under this chapter, the court shall concurrently order that
27 each juvenile record relating to the applicable proceeding be expunged.

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

30 “(4) NOTICE OF AUTOMATIC EXPUNGEMENT.—A court that orders the expungement of a
31 juvenile record of a person under paragraph (1)(C) or (2) shall, in writing, inform the person
32 of the expungement and the benefits of expunging the record.

33 “(b) Petitioning for Expungement of Nonviolent Offenses.—

34 “(1) IN GENERAL.—A person who is adjudicated delinquent under this chapter for a
35 juvenile nonviolent offense committed on or after the date on which the person attained 15
36 years of age may petition the court in which the proceeding took place to order the
37 expungement of the juvenile record that relates to the offense unless the person—

38 “(A) has been convicted of a crime or adjudicated delinquent for an act of juvenile
39 delinquency since the date of the disposition;

40 “(B) is engaged in active criminal court proceedings or juvenile delinquency
41 proceedings; or

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

3 “(2) PROCEDURES.—

4 “(A) NOTIFICATION OF PROSECUTOR AND VICTIMS.—If a person files an
5 expungement petition with respect to a juvenile nonviolent offense, the court in which
6 the petition is filed shall provide notice of the petition—

7 “(i) to the Attorney General; and

8 “(ii) upon the request of the petitioner, to any other individual that the
9 petitioner determines may testify as to—

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

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

12 “(B) HEARING.—

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

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

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

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

19 “(I) PETITIONER.—The petitioner may testify or offer evidence at the
20 expungement hearing in support of expungement.

21 “(II) PROSECUTOR.—The Attorney General may send a representative to
22 testify or offer evidence at the expungement hearing in support of or against
23 expungement.

24 “(III) OTHER INDIVIDUALS.—An individual who receives notice under
25 subparagraph (A)(ii) may testify or offer evidence at the expungement
26 hearing as to the issues described in subclauses (I) and (II) of that
27 subparagraph.

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

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

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

33 “(iii) the best interests of the petitioner;

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

36 “(v) the nature of the juvenile nonviolent offense;

37 “(vi) the disposition of the case;

1 “(vii) the manner in which the petitioner participated in any court-ordered
2 rehabilitative programming or supervised services;

3 “(viii) the length of the time period during which the petitioner has been
4 without contact with any court or any law enforcement agency;

5 “(ix) whether the petitioner has had any criminal or juvenile delinquency
6 involvement since the disposition of the juvenile delinquency proceeding; and

7 “(x) the adverse consequences the petitioner may suffer if the petition is not
8 granted.

9 “(D) WAITING PERIOD AFTER DENIAL.—If the court denies an expungement petition,
10 the petitioner may not file a new expungement petition with respect to the same
11 offense until the date that is 2 years after the date of the denial.

12 “(E) UNIVERSAL FORM.—The Director of the Administrative Office of the United
13 States Courts shall create a universal form, available over the Internet and in paper
14 form, that an individual may use to file an expungement petition.

15 “(F) NO FEE FOR INDIGENT PETITIONERS.—If the court determines that the petitioner
16 is indigent, there shall be no cost for filing an expungement petition.

17 “(G) REPORTING.—Not later than 2 years after the date of enactment of this section,
18 and each year thereafter, the Director of the Administrative Office of the United States
19 Courts shall issue a public report that—

20 “(i) describes—

21 “(I) the number of expungement petitions granted and denied under this
22 subsection; and

23 “(II) the number of instances in which the Attorney General supported or
24 opposed an expungement petition;

25 “(ii) includes any supporting data that the Director determines relevant and that
26 does not name any petitioner; and

27 “(iii) disaggregates all relevant data by race, ethnicity, gender, and the nature of
28 the offense.

29 “(H) PUBLIC DEFENDER ELIGIBILITY.—

30 “(i) PETITIONERS UNDER AGE 18.—The district court shall appoint counsel in
31 accordance with the plan of the district court in operation under section 3006A to
32 represent a petitioner for purposes of this subsection if the petitioner is less than
33 18 years of age.

34 “(ii) PETITIONERS AGE 18 AND OLDER.—

35 “(I) DISCRETION OF COURT.—In the case of a petitioner who is not less
36 than 18 years of age, the district court may, in its discretion, appoint counsel
37 in accordance with the plan of the district court in operation under section
38 3006A to represent the petitioner for purposes of this subsection.

39 “(II) CONSIDERATIONS.—In determining whether to appoint counsel under

1 subclause (I), the court shall consider—

2 “(aa) the anticipated complexity of the expungement hearing,
3 including the number and type of witnesses called to advocate against
4 the expungement of the records of the petitioner; and

5 “(bb) the potential for adverse testimony by a victim or a
6 representative of the Attorney General.

7 “(c) Effect of Expunged Juvenile Record.—

8 “(1) PROTECTION FROM PERJURY LAWS.—~~EXCEPT DISCLOSURE.~~—**Except** as provided in
9 ~~paragraph (4)(C)~~ **paragraphs (4) through (8)**, if a court orders the expungement of a
10 juvenile record of a person under subsection (a) or (b) with respect to a juvenile nonviolent
11 offense, the ~~person shall not be held under any provision of law to be guilty of perjury, false~~
12 ~~swearing, or making a false statement by reason of the person’s failure to recite or~~
13 ~~acknowledge the offense and any arrest, juvenile delinquency proceeding, adjudication, or~~
14 ~~other result of such proceeding relating to the offense in response to an inquiry made of the~~
15 ~~person for any purpose.~~ **proceedings in the case shall be deemed never to have occurred,**
16 **and the person may properly reply accordingly to any inquiry about the events the**
17 **records of which are ordered sealed.**

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

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

23 “(i) law enforcement agency; and

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

25 “(B) in the expungement order—

26 “(i) require each entity or person described in subparagraph (A) to—

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

29 “(II) on the date that is 1 year after the date of the order, destroy the record
30 unless a subsequent incident described in subsection (d)(2) occurs; and

31 “(III) submit a written certification to the court, under penalty of perjury,
32 that the entity or person has destroyed each paper and electronic copy of the
33 record; and

34 “(ii) explain that if a subsequent incident described in subsection (d)(2) occurs,
35 the order shall be vacated and the record shall no longer be sealed;

36 “(C) on the date that is 1 year after the date of the order, destroy each paper and
37 electronic copy of the record in the possession of the court unless a subsequent incident
38 described in subsection (d)(2) occurs; and

39 “(D) after receiving a written certification from each entity or person under
40 subparagraph (B)(i)(III), notify the petitioner that each entity or person described in

1 subparagraph (A) has destroyed each paper and electronic copy of the record.

2 “(3) REPLY TO INQUIRIES.—On and after the date that is 1 year after the date on which a
3 court orders the expungement of a juvenile record of a person under this section, in the case
4 of an inquiry relating to the juvenile record, the court, each law enforcement officer, any
5 agency that provided treatment or rehabilitation services to the person, and the person
6 (except as provided in ~~paragraph (5)~~ **paragraphs (4) through (8)**) shall reply to the inquiry
7 that no such juvenile record exists.

8 “(4) CIVIL ACTIONS.—

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

17 “(B) SHOWING BY PLAINTIFF.—In an action described in subparagraph (A), the
18 plaintiff may rebut the presumption of a complete defense by showing that the contents
19 of the expunged record would not prevent the defendant from being held liable.

20 “(C) DUTY TO TESTIFY AS TO EXISTENCE OF RECORD.—The court in which an action
21 described in subparagraph (A) is filed may require the plaintiff to state under oath
22 whether the plaintiff had a juvenile record and whether the record was expunged.

23 “(D) PROOF OF EXISTENCE OF JUVENILE RECORD.—If the plaintiff in an action
24 described in subparagraph (A) denies the existence of a juvenile record, the defendant
25 may prove the existence of the record in any manner compatible with the applicable
26 laws of evidence.

27 “(5) CRIMINAL AND JUVENILE PROCEEDINGS.—On and after the date that is 1 year after the
28 date on which a court orders the expungement of a juvenile record under this section, a
29 prosecutor **or other law enforcement officer** may disclose underlying information from the
30 juvenile record, **and the person who is the subject of** ~~if the information—~~

31 ~~“(A) is derived from a source other than the juvenile record ; and~~ **may be required to**
32 **testify or otherwise disclose information about the record, in a criminal or other**
33 **proceeding if such disclosure is required by the Constitution of the United States, the**
34 **constitution of a State, or a Federal or State statute or rule.**

35 ~~“(B) pertains to a potential witness in a Federal or State—~~“(6) **BACKGROUND**
36 **CHECKS.—On and after the date that is 1 year after the date on which a court orders**
37 **the expungement of a juvenile record under this section, in the case of a background**
38 **check for law enforcement employment or for any employment that requires a**
39 **government security clearance, the person who is the subject of the juvenile record**
40 **may be required to disclose underlying information from the record.**

41 ~~“(i) criminal proceeding; or~~“(7) **DISCLOSURE TO ARMED FORCES.—On and after the**
42 **date that is 1 year after the date on which a court orders the expungement of a**

1 **juvenile record under this section, a person, including a law enforcement agency that**
2 **possessed such a juvenile record, may be required to disclose underlying information**
3 **from the record to the Secretaries of the military departments (or the Secretary of**
4 **Homeland Security with respect to the Coast Guard when it is not operating as a**
5 **service in the Navy) for the purpose of vetting an enlistment or commission, or with**
6 **regard to any member of the Armed Forces.**

7 ~~“(ii) juvenile delinquency proceeding.~~

8 ~~“(6)“(8) AUTHORIZATION FOR PERSON TO DISCLOSE OWN RECORD.—~~A person who is the
9 ~~subject of a juvenile record expunged under this section may choose to disclose the record.~~

10 ~~“(7)“(9) TREATMENT AS SEALED RECORD DURING TRANSITION PERIOD.—~~During the 1-year
11 ~~period beginning on the date on which a court orders the expungement of a juvenile record~~
12 ~~under this section, paragraphs (3) and (4) of section 5043(c) shall apply with respect to the~~
13 ~~record as if the record had been sealed under that section.~~

14 ~~“(d) Limitation Relating to Subsequent Incidents.—~~

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

20 ~~“(2) AFTER PETITION GRANTED.—~~If, on or after the date on which a court orders the
21 ~~expungement of a juvenile record of a person under subsection (b), the person is convicted~~
22 ~~of a crime, adjudicated delinquent for an act of juvenile delinquency, or engaged in active~~
23 ~~criminal court proceedings or juvenile delinquency proceedings—~~

24 ~~“(A) the court that ordered the expungement shall—~~

25 ~~“(i) vacate the order; and~~

26 ~~“(ii) notify the person who is the subject of the juvenile record, and each entity~~
27 ~~or person described in subsection (c)(2)(A), that the order has been vacated; and~~

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

29 ~~“(e) Inclusion of State Juvenile Delinquency Adjudications and Proceedings.—~~For purposes
30 ~~of subparagraphs (A) and (B) of subsection (b)(1) and paragraphs (1) and (2) of subsection (d),~~
31 ~~the term ‘juvenile delinquency’ includes the violation of a law of a State committed by a person~~
32 ~~before attaining the age of 18 which would have been a crime if committed by an adult.”.~~

33 (2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 403 of
34 title 18, United States Code, is amended by adding at the end the following:

35 “5043. Sealing.

36 “5044. Expungement.”.

37 (3) APPLICABILITY.—Sections 5043 and 5044 of title 18, United States Code, as added by
38 paragraph (1), shall apply with respect to a juvenile nonviolent offense (as defined in
39 section 5031 of such title, as amended by subsection (b)) that is committed or alleged to
40 have been committed before, on, or after the date of enactment of this Act.

1 (e) Rule of Construction.—Nothing in the amendments made by this section shall be construed
2 to authorize the sealing or expungement of a record of a criminal conviction of a juvenile who
3 was proceeded against as an adult in a district court of the United States.

4 SEC. 212. JUVENILE SOLITARY CONFINEMENT.

5 (a) In General.—Chapter 403 of title 18, United States Code, as amended by section 211, is
6 amended by adding at the end the following:

7 “5045. Juvenile solitary confinement

8 “(a) Definitions.—In this section—

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

10 “(A) a juvenile who—

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

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

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

16 “(2) the term ‘juvenile facility’ means any facility where covered juveniles are—

17 “(A) committed pursuant to an adjudication of delinquency under this chapter; or

18 “(B) detained prior to disposition or conviction; and

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

21 “(b) Prohibition on Room Confinement in Juvenile Facilities.—

22 “(1) IN GENERAL.—The use of room confinement at a juvenile facility for discipline,
23 punishment, retaliation, or any reason other than as a temporary response to a covered
24 juvenile’s behavior that poses a serious and immediate risk of physical harm to any
25 individual, including the covered juvenile, is prohibited.

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

27 “(A) REQUIREMENT TO USE LEAST RESTRICTIVE TECHNIQUES.—

28 “(i) IN GENERAL.—Before a staff member of a juvenile facility places a covered
29 juvenile in room confinement, the staff member shall attempt to use less
30 restrictive techniques, including—

31 “(I) talking with the covered juvenile in an attempt to de-escalate the
32 situation; and

33 “(II) permitting a qualified mental health professional to talk to the
34 covered juvenile.

35 “(ii) EXPLANATION.—If, after attempting to use less restrictive techniques as
36 required under clause (i), a staff member of a juvenile facility decides to place a

1 covered juvenile in room confinement, the staff member shall first—

2 “(I) explain to the covered juvenile the reasons for the room confinement;
3 and

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

6 “(aa) immediately when the covered juvenile regains self-control, as
7 described in subparagraph (B)(i); or

8 “(bb) not later than after the expiration of the time period described in
9 subclause (I) or (II) of subparagraph (B)(ii), as applicable.

10 “(B) MAXIMUM PERIOD OF CONFINEMENT.—If a covered juvenile is placed in room
11 confinement because the covered juvenile poses a serious and immediate risk of
12 physical harm to himself or herself, or to others, the covered juvenile shall be
13 released—

14 “(i) immediately when the covered juvenile has sufficiently gained control so
15 as to no longer engage in behavior that threatens serious and immediate risk of
16 physical harm to himself or herself, or to others; or

17 “(ii) if a covered juvenile does not sufficiently gain control as described in
18 clause (i), not later than—

19 “(I) 3 hours after being placed in room confinement, in the case of a
20 covered juvenile who poses a serious and immediate risk of physical harm to
21 others; or

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

25 “(C) RISK OF HARM AFTER MAXIMUM PERIOD OF CONFINEMENT.—If, after the
26 applicable maximum period of confinement under subclause (I) or (II) of subparagraph
27 (B)(ii) has expired, a covered juvenile continues to pose a serious and immediate risk
28 of physical harm described in that subclause—

29 “(i) the covered juvenile shall be transferred to another juvenile facility or
30 internal location where services can be provided to the covered juvenile without
31 relying on room confinement; or

32 “(ii) if a qualified mental health professional believes the level of crisis service
33 needed is not currently available, a staff member of the juvenile facility shall
34 initiate a referral to a location that can meet the needs of the covered juvenile.

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

37 (b) Technical and Conforming Amendment.—The table of sections for chapter 403 of title 18,
38 United States Code, as amended by section 211, is amended by adding at the end the following:

39 “5045. Juvenile solitary confinement.”.

1 SEC. 213. ENSURING ACCURACY OF FEDERAL
2 CRIMINAL RECORDS.

3 (a) In General.—Section 534 of title 28, United States Code, is amended by adding at the end
4 the following:

5 “(g) Ensuring Accuracy of Federal Criminal Records.—

6 “(1) DEFINITIONS.—In this subsection—

7 “(A) the term ‘applicant’ means the individual to whom a record sought to be
8 exchanged pertains;

9 “(B) the term ‘**high-risk, public trust position**’ means a position designated as a
10 **public trust position under section 731.106(b) of title 5, Code of Federal**
11 **Regulations, or any successor regulation;**

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

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

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

18 ~~“(C)”~~“(D) the term ‘record’ means a record or other information collected under this
19 section that relates to—

20 “(i) an arrest by a Federal law enforcement officer; or

21 “(ii) a Federal criminal proceeding;

22 ~~“(D)”~~“(E) the term ‘reporting jurisdiction’ means any person or entity that provides a
23 record to the Attorney General under this section; and

24 ~~“(E)”~~“(F) the term ‘requesting entity’—

25 “(i) means a person or entity that seeks the exchange of a record for civil
26 purposes that include employment, housing, credit, or any other type of
27 application; and

28 “(ii) does not include a law enforcement or intelligence agency that seeks the
29 exchange of a record for—

30 “(I) investigative purposes; or

31 “(II) purposes relating to law enforcement employment.

32 “(2) INCOMPLETE OR INACCURATE RECORDS.—The Attorney General shall establish and
33 enforce procedures to ensure the prompt release of accurate records exchanged for
34 employment-related purposes through the records system created under this section.

35 “(3) REQUIRED PROCEDURES.—The procedures established under paragraph (2) shall
36 include the following:

37 “(A) INACCURATE RECORD OR INFORMATION.—If the Attorney General determines

1 that a record is inaccurate, the Attorney General shall promptly correct the record,
2 including by making deletions to the record if appropriate.

3 “(B) INCOMPLETE RECORD.—

4 “(i) IN GENERAL.—If the Attorney General determines that a record is
5 incomplete or cannot be verified, the Attorney General—

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

7 “(II) if unable to complete or verify the record, may promptly make any
8 changes or deletions to the record.

9 “(ii) LACK OF DISPOSITION OF ARREST.—For purposes of this subparagraph, an
10 incomplete record includes a record that indicates there was an arrest and does not
11 include the disposition of the arrest.

12 “(iii) OBTAINING DISPOSITION OF ARREST.—If the Attorney General determines
13 that a record is an incomplete record described in clause (ii), the Attorney General
14 shall, not later than 10 days after the date on which the requesting entity requests
15 the exchange and before the exchange is made, obtain the disposition (if any) of
16 the arrest.

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

20 “(D) OPPORTUNITY TO REVIEW RECORDS BY APPLICANT.—In connection with an
21 exchange of a record under this section, the Attorney General shall—

22 “(i) notify the applicant that the applicant can obtain a copy of the record as
23 described in clause (ii) if the applicant demonstrates a reasonable basis for the
24 applicant’s review of the record;

25 “(ii) provide to the applicant an opportunity, upon request and in accordance
26 with clause (i), to—

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

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

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

30 “(iv) not later than 30 days after the date on which the challenge is made,
31 complete an investigation of the challenge;

32 “(v) provide to the applicant the specific findings and results of that
33 investigation;

34 “(vi) promptly make any changes or deletions to the records required as a result
35 of the challenge; and

36 “(vii) report those changes to the requesting entity.

37 “(E) CERTAIN EXCHANGES PROHIBITED.—

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

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

4 “(II) relating to an adult or juvenile nonserious offense of the sort
5 described in section 20.32(b) of title 28, Code of Federal Regulations, as in
6 effect on July 1, 2009; or

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

9 “(ii) APPLICANTS FOR SENSITIVE POSITIONS.—The prohibition under clause
10 (i)(I) shall not apply in the case of a background check that relates to—

11 “(I) law enforcement employment; or

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

13 “(aa) national security position; or

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

15 “(4) FEES.—The Attorney General may collect a reasonable fee for an exchange of
16 records for employment-related purposes through the records system created under this
17 section to defray the costs associated with exchanges for those purposes, including any costs
18 associated with the investigation of inaccurate or incomplete records.”.

19 (b) Regulations on Reasonable Procedures.—Not later than 1 year after the date of enactment
20 of this Act, the Attorney General shall issue regulations to carry out section 534(g) of title 28,
21 United States Code, as added by subsection (a).

22 (c) Report.—

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

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

28 (A) the number of exchanges of records for employment-related purposes made with
29 entities in each State through the records system created under such section 534;

30 (B) any prolonged failure of a Federal agency to comply with a request by the
31 Attorney General for information about dispositions of arrests; and

32 (C) the numbers of successful and unsuccessful challenges to the accuracy and
33 completeness of records, organized by the Federal agency from which each record
34 originated.