

114TH CONGRESS
1ST SESSION

S. 2123

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 2015

Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. CORNYN, Mr. WHITEHOUSE, Mr. LEE, Mr. SCHUMER, Mr. GRAHAM, Mr. LEAHY, Mr. BOOKER, and Mr. SCOTT) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Sentencing Reform and Corrections Act of 2015”.

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

Sec. 1. Short title; table of contents.

TITLE I—SENTENCING REFORM

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

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

TITLE II—CORRECTIONS ACT

- Sec. 201. Short title.
- Sec. 202. Recidivism reduction programming and productive activities.
- Sec. 203. Post-sentencing risk and needs assessment system.
- Sec. 204. Prerelease custody.
- Sec. 205. Reports.
- Sec. 206. Additional tools to promote recovery and prevent drug and alcohol abuse and dependence.
- Sec. 207. Eric Williams Correctional Officer Protection Act.
- Sec. 208. Promoting successful reentry.
- Sec. 209. Parole for juveniles.
- Sec. 210. Compassionate release initiative.
- Sec. 211. Juvenile sealing and expungement.
- Sec. 212. Juvenile solitary confinement.
- Sec. 213. Ensuring accuracy of Federal criminal records.

1 **TITLE I—SENTENCING REFORM**

2 **SEC. 101. REDUCE AND RESTRICT ENHANCED SENTENCING**

3 **FOR PRIOR DRUG FELONIES.**

4 (a) CONTROLLED SUBSTANCES ACT AMEND-

5 MENTS.—The Controlled Substances Act (21 U.S.C. 801

6 et seq.) is amended—

7 (1) in section 102 (21 U.S.C. 802), by adding

8 at the end the following:

9 “(57) The term ‘serious drug felony’ means an

10 offense described in section 924(e)(2)(A) of title 18,

11 United States Code, for which the offender served a

12 term of imprisonment of more than 12 months.

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

2 “(A) an offense described in section
3 3559(c)(2)(F) of title 18, United States Code,
4 for which the offender served a term of impris-
5 onment of more than 12 months; and

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

13 (2) in section 401(b)(1) (21 U.S.C.
14 841(b)(1))—

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

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

1 such person shall be sentenced to a term of
2 imprisonment of not less than 15 years”;
3 and

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

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

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

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

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

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

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

22 (2) PAST CASES.—In the case of a defendant
23 who, before the date of enactment of this Act, was
24 convicted of an offense for which the penalty is
25 amended by this section and was sentenced to a

1 term of imprisonment for the offense, the sentencing
 2 court may, on motion of the defendant or the Direc-
 3 tor of the Bureau of Prisons, or on its own motion,
 4 upon prior notice to the Government, reduce the
 5 term of imprisonment for the offense, after consid-
 6 ering the factors set forth in section 3553(a) of title
 7 18, United States Code, the nature and seriousness
 8 of the danger to any person or the community, and
 9 the post-sentencing conduct of the defendant, if such
 10 a reduction is consistent with this section and the
 11 amendments made by this section.

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

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

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

17 “(1) the defendant does not have—

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

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

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

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

1 “(g) INADEQUACY OF CRIMINAL HISTORY.—

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

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

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

20 “(1) the term ‘drug trafficking offense’ means
21 an offense that is punishable by imprisonment under
22 any law of the United States, or of a State or for-
23 eign country, that prohibits or restricts the importa-
24 tion, manufacture, or distribution of controlled sub-

1 stances or the possession of controlled substances
2 with intent to distribute; and

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

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

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

11 (a) **AMENDMENT.**—Section 3553 of title 18, United
12 States Code, as amended by section 102, is amended by
13 adding at the end the following:

14 “(i) **LIMITATION ON APPLICABILITY OF CERTAIN**
15 **STATUTORY MINIMUMS.**—Notwithstanding any other pro-
16 vision of law, in the case of a conviction under section 401
17 or 406 of the Controlled Substances Act (21 U.S.C. 841
18 and 846) or section 1010 or 1013 of the Controlled Sub-
19 stances Import and Export Act (21 U.S.C. 960 and 963)
20 for which the statutory minimum term of imprisonment
21 is 10 years, the court may impose a sentence as if the
22 statutory minimum term of imprisonment was 5 years, if
23 the court finds at sentencing, after the Government has
24 been afforded the opportunity to make a recommendation,
25 that—

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

7 “(2) the defendant did not use violence or cred-
8 ible threats of violence or possess a firearm or other
9 dangerous weapon (or induce another participant to
10 do so) in connection with the offense, and the of-
11 fense did not result in death or serious bodily injury
12 to any person;

13 “(3) the defendant did not play an enhanced
14 role in the offense by acting as an organizer, leader,
15 manager, or supervisor of other participants in the
16 offense, as determined under the sentencing guide-
17 lines, or by exercising substantial authority or con-
18 trol over the criminal activity of a criminal organiza-
19 tion, regardless of whether the defendant was a
20 member of such organization;

21 “(4) the defendant did not act as an importer,
22 exporter, high-level distributor or supplier, whole-
23 saler, or manufacturer of the controlled substances
24 involved in the offense or engage in a continuing

1 criminal enterprise, as defined in section 408 of the
2 Controlled Substances Act (21 U.S.C. 848);

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

6 “(6) not later than the time of the sentencing
7 hearing, the defendant has truthfully provided to the
8 Government all information and evidence the defend-
9 ant has concerning the offense or offenses that were
10 part of the same course of conduct or of a common
11 scheme or plan, but the fact that the defendant has
12 no relevant or useful other information to provide or
13 that the Government is already aware of the infor-
14 mation shall not preclude a determination by the
15 court that the defendant has complied with this re-
16 quirement.

17 “(j) DEFINITIONS.—As used in subsection (i) of this
18 section—

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

21 “(A) means a defendant who imported, ex-
22 ported, or otherwise distributed or supplied
23 large quantities of a controlled substance to
24 other drug distributors; and

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

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

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

9 (2) PAST CASES.—In the case of a defendant
10 who, before the date of enactment of this Act, was
11 convicted of an offense for which the penalty is
12 amended by this section and was sentenced to a
13 term of imprisonment for the offense, the sentencing
14 court may, on motion of the defendant or the Direc-
15 tor of the Bureau of Prisons, or on its own motion,
16 upon prior notice to the Government, reduce the
17 term of imprisonment for the offense, after consid-
18 ering the factors set forth in section 3553(a) of title
19 18, United States Code, the nature and seriousness
20 of the danger to any person or the community, and
21 the post-sentencing conduct of the defendant, if such
22 a reduction is consistent with this section and the
23 amendments made by this section.

1 **SEC. 105. AMENDMENT TO CERTAIN PENALTIES FOR CER-**
2 **TAIN FIREARM OFFENSES AND ARMED CA-**
3 **REER CRIMINAL PROVISION.**

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

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

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

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

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

18 (2) PAST CASES.—In the case of a defendant
19 who, before the date of enactment of this Act, was
20 convicted of an offense for which the penalty is
21 amended by this section and was sentenced to a
22 term of imprisonment for the offense, the sentencing
23 court may, on motion of the defendant or the Direc-
24 tor of the Bureau of Prisons, or on its own motion,
25 upon prior notice to the Government, reduce the
26 term of imprisonment for the offense, after consid-

1 ering the factors set forth in section 3553(a) of title
2 18, United States Code, the nature and seriousness
3 of the danger to any person or the community, and
4 the post-sentencing conduct of the defendant, if such
5 a reduction is consistent with this section and the
6 amendments made by this section.

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

8 (a) DEFINITION OF COVERED OFFENSE.—In this
9 section, the term “covered offense” means a violation of
10 a Federal criminal statute, the statutory penalties for
11 which were modified by section 2 or 3 of the Fair Sen-
12 tencing Act of 2010 (Public Law 111–220; 124 Stat.
13 2372), that was committed before August 3, 2010.

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

22 (c) LIMITATIONS.—No court shall entertain a motion
23 made under this section to reduce a sentence if the sen-
24 tence was previously imposed or previously reduced in ac-
25 cordance with the amendments made by sections 2 and

1 3 of the Fair Sentencing Act of 2010 (Public Law 111–
 2 220; 124 Stat. 2372) or if a motion made under this sec-
 3 tion to reduce the sentence was previously denied. Nothing
 4 in this section shall be construed to require a court to re-
 5 duce any sentence pursuant to this section.

6 **SEC. 107. MANDATORY MINIMUM SENTENCES FOR DOMES-**
 7 **TIC VIOLENCE OFFENSES.**

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

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

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

15 “(B) in the case of a violation of section
 16 2261A, for life or any term of years;

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

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

21 “(B) in the case of a violation of section
 22 2261A, for not more than 20 years;

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

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

3 “(B) in the case of a violation of section
4 2261A, for not more than 10 years;”.

5 **SEC. 108. MINIMUM TERM OF IMPRISONMENT FOR CER-**
6 **TAIN ACTS RELATING TO THE PROVISION OF**
7 **CONTROLLED GOODS OR SERVICES TO TER-**
8 **RORISTS OR PROLIFERATORS OF WEAPONS**
9 **OF MASS DESTRUCTION.**

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

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

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

16 “(d) MINIMUM TERM OF IMPRISONMENT FOR CER-
17 TAIN ACTS RELATING TO THE PROVISION OF CON-
18 TROLLED GOODS OR SERVICES TO TERRORISTS OR
19 PROLIFERATORS OF WEAPONS OF MASS DESTRUC-
20 TION.—

21 “(1) IN GENERAL.—A person who willfully com-
22 mits, willfully attempts to commit, or willfully con-
23 spires to commit, solicits the commission of, or aids
24 or abets in the commission of, an unlawful act de-
25 scribed in paragraph (2) shall, upon conviction, be

1 imprisoned for a term of not less than 5 years. Not-
2 withstanding any other provision of law, a court
3 shall not place on probation any person sentenced
4 under this subsection.

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

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

10 “(i) a state sponsor of terrorism;

11 “(ii) an organization designated as a
12 foreign terrorist organization under section
13 219(a) of the Immigration and Nationality
14 Act (8 U.S.C. 1189(a)); or

15 “(iii) a person on the list of specially
16 designated nationals and blocked persons
17 maintained by the Office of Foreign Assets
18 Control of the Department of the Treas-
19 ury;

20 “(B) the provision of goods or services,
21 without a license or other written approval of
22 the United States Government, to any person in
23 connection with a program or effort of a foreign
24 country or foreign person to develop weapons of
25 mass destruction; or

1 “(C) the provision of defense articles or de-
2 fense services, without a license or other written
3 approval of the Department of State, to, or for
4 the use of, a country subject to an arms embar-
5 go by the United States.

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

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

11 “(i) the United States Munitions List
12 maintained pursuant to part 121 of title
13 22, Code of Federal Regulations;

14 “(ii) the Commerce Control List
15 maintained pursuant to part 774 of title
16 15, Code of Federal Regulations; or

17 “(iii) any successor to the United
18 States Munitions List or the Commerce
19 Control List.

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

1 “(i) an embargo or prohibition exists
2 on the export of defense articles or defense
3 services; or

4 “(ii) the policy of the United States is
5 to deny licenses and other approvals for
6 the export of defense articles and defense
7 services.

8 “(C) DEFENSE ARTICLE; DEFENSE SERV-
9 ICE.—The terms ‘defense article’ and ‘defense
10 service’ have the meanings given those terms in
11 section 47 of the Arms Export Control Act (22
12 U.S.C. 2794).

13 “(D) STATE SPONSOR OF TERRORISM.—
14 The term ‘state sponsor of terrorism’ means
15 any foreign country, or political subdivision,
16 agency, or instrumentality of a foreign country,
17 if the Secretary of State has determined that
18 the government of the country has repeatedly
19 provided support for acts of international ter-
20 rorism pursuant to—

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

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

3 “(iii) section 620A(a) of the Foreign
4 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.—
8 The term ‘weapon of mass destruction’ has the
9 meaning given that term in section 2332a of
10 title 18, United States Code.”.

11 **SEC. 109. INVENTORY OF FEDERAL CRIMINAL OFFENSES.**

12 (a) DEFINITIONS.—In this section—

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

16 (2) the term “criminal statutory offense”
17 means a criminal offense under a Federal statute.

18 (b) REPORT ON CRIMINAL STATUTORY OFFENSES.—
19 Not later than 1 year after the date of enactment of this
20 Act, the Attorney General shall submit to the Committee
21 on the Judiciary of the Senate and the Committee on the
22 Judiciary of the House of Representatives a report, which
23 shall include—

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

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

6 (A) the potential criminal penalty for the
7 criminal statutory offense;

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

13 (C) the mens rea requirement for the
14 criminal statutory offense.

15 (c) REPORT ON CRIMINAL REGULATORY OF-
16 FENSES.—

17 (1) REPORTS.—Not later than 1 year after the
18 date of enactment of this Act, the head of each Fed-
19 eral agency described in paragraph (2) shall submit
20 to the Committee on the Judiciary of the Senate and
21 the Committee on the Judiciary of the House of
22 Representatives a report, which shall include—

23 (A) a list of all criminal regulatory of-
24 fenses enforceable by the agency; and

1 (B) for each criminal regulatory offense
2 listed under subparagraph (A)—

3 (i) the potential criminal penalty for a
4 violation of the criminal regulatory offense;

5 (ii) the number of violations of the
6 criminal regulatory offense referred to the
7 Department of Justice for prosecution in
8 each of the years during the 15-year period
9 preceding the date of enactment of this
10 Act; and

11 (iii) the mens rea requirement for the
12 criminal regulatory offense.

13 (2) AGENCIES DESCRIBED.—The Federal agen-
14 cies described in this paragraph are the Department
15 of Agriculture, the Department of Commerce, the
16 Department of Education, the Department of En-
17 ergy, the Department of Health and Human Serv-
18 ices, the Department of Homeland Security, the De-
19 partment of Housing and Urban Development, the
20 Department of the Interior, the Department of
21 Labor, the Department of Transportation, the De-
22 partment of the Treasury, the Commodity Futures
23 Trading Commission, the Consumer Product Safety
24 Commission, the Equal Employment Opportunity
25 Commission, the Export-Import Bank of the United

1 States, the Farm Credit Administration, the Federal
2 Communications Commission, the Federal Deposit
3 Insurance Corporation, the Federal Election Com-
4 mission, the Federal Labor Relations Authority, the
5 Federal Maritime Commission, the Federal Mine
6 Safety and Health Review Commission, the Federal
7 Trade Commission, the National Labor Relations
8 Board, the National Transportation Safety Board,
9 the Nuclear Regulatory Commission, the Occupa-
10 tional Safety and Health Review Commission, the
11 Office of Compliance, the Postal Regulatory Com-
12 mission, the Securities and Exchange Commission,
13 the Securities Investor Protection Corporation, the
14 Environmental Protection Agency, the Small Busi-
15 ness Administration, the Federal Housing Finance
16 Agency, and the Office of Government Ethics.

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

19 (1) the Attorney General shall establish a pub-
20 lically accessible index of each criminal statutory of-
21 fense listed in the report required under subsection
22 (b) and make the index available and freely acces-
23 sible on the website of the Department of Justice;
24 and

1 correctional institutions, which shall include a review
2 of research on the effectiveness of such programs;

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

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

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

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

23 “(1) IN GENERAL.—The Director of the Bureau
24 of Prisons, shall, subject to the availability of appro-
25 priations, make available to all eligible prisoners ap-

1 appropriate recidivism reduction programming or pro-
2 ductive activities, including prison jobs, in accord-
3 ance with paragraph (2).

4 “(2) EXPANSION PERIOD.—

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

12 “(B) CERTIFICATION.—

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

22 “(ii) CONSIDERATIONS.—In deter-
23 mining whether or not to issue a certifi-
24 cation under clause (i), the National Insti-
25 tute of Corrections shall consult with inter-

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

9 “(3) RECIDIVISM REDUCTION PARTNERSHIPS.—

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

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

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

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

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

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

12 “(iii) employ prisoners; or

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

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

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

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

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

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

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

22 “(5) MENTORING SERVICES.—Any person who
23 provided mentoring services to a prisoner while the
24 prisoner was in a penal or correctional facility of the
25 Bureau of Prisons shall be permitted to continue

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

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

13 “(A) TIME CREDITS.—

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

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

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

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

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

1 termines in writing at sentencing that the
2 defendant’s criminal history category sub-
3 stantially overrepresents the seriousness of
4 the defendant’s criminal history or the
5 likelihood that the defendant will commit
6 other crimes. No credit shall be awarded
7 under this subparagraph to any prisoner
8 serving a sentence of imprisonment for
9 conviction for any of the following offenses:

10 “(I) A Federal crime of ter-
11 rorism, as defined under section
12 2332b(g)(5).

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

15 “(III) A Federal sex offense, as
16 described in section 111 of the Sex
17 Offender Registration and Notifica-
18 tion Act (42 U.S.C. 16911).

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

23 “(V) A Federal fraud offense for
24 which the prisoner received a sentence

1 of imprisonment of more than 15
2 years.

3 “(VI) A Federal crime involving
4 child exploitation, as defined in sec-
5 tion 2 of the PROTECT Our Children
6 Act of 2008 (42 U.S.C. 17601).

7 “(VII) A violation of—

8 “(aa) chapter 11 (relating to
9 bribery, graft, and conflicts of in-
10 terest);

11 “(bb) chapter 29 (relating to
12 elections and political activities);

13 “(cc) section 1028A, 1031,
14 or 1040 (relating to fraud);

15 “(dd) chapter 63 involving a
16 scheme or artifice to deprive an-
17 other of the intangible right of
18 honest services;

19 “(ee) chapter 73 (relating to
20 obstruction of justice);

21 “(ff) chapter 95 or 96 (re-
22 lating to racketeering and rack-
23 eteer influenced and corrupt or-
24 ganizations); or

1 “(gg) chapter 110 (relating
2 to sexual exploitation and other
3 abuse of children).

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

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

24 “(C) PENALTIES.—The Bureau of Prisons
25 may reduce rewards a prisoner has previously

1 earned under subparagraph (A) for prisoners
2 who violate the rules of the penal or correc-
3 tional facility in which the prisoner is impris-
4 oned, a recidivism reduction program, or a pro-
5 ductive activity.

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

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

18 “(A) shall be considered to have success-
19 fully completed a recidivism reduction program
20 or productive activity, if the Bureau of Prisons
21 determines that the prisoner—

22 “(i) regularly attended and partici-
23 pated in the recidivism reduction program
24 or productive activity;

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

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

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

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

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

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

3 “(i) means a prisoner serving a sen-
4 tence of incarceration for conviction of a
5 Federal offense; and

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

8 “(I) is medically unable to suc-
9 cessfully complete recidivism reduction
10 programming or productive activities;

11 “(II) would present a security
12 risk if permitted to participate in re-
13 cidivism reduction programming; or

14 “(III) is serving a sentence of in-
15 carceration of less than 1 month.

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

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

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

4 “(C) RECIDIVISM REDUCTION PROGRAM.—
5 The term ‘recidivism reduction program’
6 means—

7 “(i) a group or individual activity
8 that—

9 “(I) has been certified to reduce
10 recidivism or promote successful re-
11 entry; and

12 “(II) may include—

13 “(aa) classes on social learn-
14 ing and life skills;

15 “(bb) classes on morals or
16 ethics;

17 “(cc) academic classes;

18 “(dd) cognitive behavioral
19 treatment;

20 “(ee) mentoring;

21 “(ff) occupational and voca-
22 tional training;

23 “(gg) faith-based classes or
24 services;

1 “(hh) domestic violence edu-
2 cation and deterrence program-
3 ming;

4 “(ii) victim-impact classes or
5 other restorative justice pro-
6 grams;

7 “(jj) industry-sponsored
8 workforce development, edu-
9 cation, or training; and

10 “(kk) a prison job; and

11 “(ii) shall include—

12 “(I) a productive activity; and

13 “(II) recovery programming.

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

23 (c) NO CONSIDERATION OF EARNED TIME CREDIT
24 ELIGIBILITY DURING SENTENCING.—

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

4 (A) by redesignating subsections (b)
5 through (j) as subsections (e) through (k), re-
6 spectively;

7 (B) in subsection (e)(3), as so redesign-
8 ated, by striking “subsection (c)” and insert-
9 ing “subsection (d)”; and

10 (C) by inserting after subsection (a) the
11 following:

12 “(b) In imposing a sentence, the court shall not con-
13 sider the defendant’s eligibility or potential eligibility for
14 credit under section 3621(e), 3621(h), or 3624(b) or any
15 similar provision of law.”.

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

19 (A) in subsection (e)(3)—

20 (i) in subparagraph (A), by striking
21 “section 3553(c)” and inserting “section
22 3553(d)”;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(b) DEVELOPMENT OF SYSTEM.—

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

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

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

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

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

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

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

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

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

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

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

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

23 “(B) develop a suitable reassessment tool
24 to perform the reassessments and updates de-
25 scribed in subsection (a)(4); and

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

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

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

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

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

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

13 “(c) RISK ASSESSMENT.—

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

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

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

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

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

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

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

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

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

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

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

14 “(i) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

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

23 “(2) CREDIT FOR RECIDIVISM REDUCTION.—In
24 addition to any time spent in prerelease custody pur-
25 suant to paragraph (1), a prisoner shall spend an

1 additional portion of the final months of the pris-
2 oner's sentence, equivalent to the amount of time
3 credit the prisoner has earned pursuant to section
4 3621(h)(6)(A), in prerelease custody, if—

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

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

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

23 (3) by redesignating paragraphs (4) through
24 (6) as paragraphs (9) through (11), respectively;

1 (4) by inserting the following after paragraph
2 (3):

3 “(4) HOME CONFINEMENT.—

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

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

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

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

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

24 “(III) participation in community
25 service;

1 “(IV) crime victim restoration ac-
2 tivities;

3 “(V) medical treatment; or

4 “(VI) religious activities; and

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

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

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

22 “(5) COMMUNITY SUPERVISION.—

23 “(A) TIME CREDIT LESS THAN 36
24 MONTHS.—Any prisoner described in subpara-
25 graph (D) who has earned time credit of less

1 than 36 months pursuant to section
2 3621(h)(6)(A) shall be eligible to serve no more
3 than one-half of the amount of such credit on
4 community supervision, if the prisoner satisfies
5 the conditions set forth in subparagraph (C).

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

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

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

24 “(ii) remains current on any financial
25 obligations imposed as part of the pris-

1 oner’s sentence, including payments of
2 court-ordered restitution arising from the
3 offense of conviction; and

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

6 “(D) COVERED PRISONERS.—A prisoner
7 described in this subparagraph is a prisoner
8 who—

9 “(i) is classified as low risk by the
10 Post-Sentencing Risk and Needs Assess-
11 ment System in the assessment conducted
12 for purposes of paragraph (2); or

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

16 “(6) VIOLATIONS.—If a prisoner violates a con-
17 dition of the prisoner’s prerelease custody, the Di-
18 rector of the Bureau of Prisons may revoke the pris-
19 oner’s prerelease custody and require the prisoner to
20 serve the remainder of the prisoner’s term of incar-
21 ceration, or any portion thereof, in prison, or impose
22 additional conditions on the prisoner’s prerelease
23 custody as the Director of the Bureau of Prisons
24 deems appropriate. If the violation is nontechnical in

1 nature, the Director of the Bureau of Prisons shall
2 revoke the prisoner's prerelease custody.

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

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

1 Services shall, to the greatest extent practicable,
2 offer assistance to any prisoner not under its super-
3 vision during prerelease custody under this sub-
4 section.”; and

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

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

21 “(13) ALIENS SUBJECT TO DEPORTATION.—If
22 the prisoner is an alien whose deportation was or-
23 dered as a condition of supervised release or who is
24 subject to a detainer filed by Immigration and Cus-
25 toms Enforcement for the purposes of determining

1 the alien’s deportability, the Director of the Bureau
2 of Prisons shall, upon the prisoner’s transfer to
3 prerelease custody pursuant to paragraphs (1) and
4 (2), deliver the prisoner to United States Immigra-
5 tion and Customs Enforcement for the purpose of
6 conducting proceedings relating to the alien’s depor-
7 tation.

8 “(14) NOTICE OF TRANSFER TO PRERELEASE
9 CUSTODY.—

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

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

23 “(C) CONTENTS OF NOTICE.—The notice
24 required under subparagraph (A) shall include
25 the following information:

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

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

5 “(iii) The nature of the prisoner’s
6 planned prerelease custody.

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

8 “(v) The most recent risk assessment
9 of the prisoner.

10 “(D) HEARING.—

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

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

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

24 “(I) shall set forth the basis for
25 the Government’s request that the

1 prisoner's transfer be denied or modi-
2 fied pursuant to subparagraph (E);
3 and

4 “(II) shall not require the Court
5 to conduct a hearing described in
6 clause (i).

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

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

19 **SEC. 205. REPORTS.**

20 (a) ANNUAL REPORTS.—

21 (1) REPORTS.—Not later than 1 year after the
22 date of enactment of this Act, and every year there-
23 after, the Attorney General, in coordination with the
24 Comptroller General of the United States, shall sub-

1 mit to the appropriate committees of Congress a re-
2 port that contains the following:

3 (A) A summary of the activities and ac-
4 complishments of the Attorney General in car-
5 rying out this title and the amendments made
6 by this title.

7 (B) An assessment of the status and use
8 of the Post-Sentencing Risk and Needs Assess-
9 ment System by the Bureau of Prisons, includ-
10 ing the number of prisoners classified at each
11 risk level under the Post-Sentencing Risk and
12 Needs Assessment System at each facility of
13 the Bureau of Prisons.

14 (C) A summary and assessment of the
15 types and effectiveness of the recidivism reduc-
16 tion programs and productive activities in facili-
17 ties operated by the Bureau of Prisons, includ-
18 ing—

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

22 (ii) the capacity of each program and
23 activity at each facility, including the num-
24 ber of prisoners along with the risk level of

1 each prisoner enrolled in each program and
2 activity; and

3 (iii) identification of any problems or
4 shortages in capacity of such programs
5 and activities, and how these should be
6 remedied.

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

10 (i) a summary of the amount of sav-
11 ings resulting from the transfer of pris-
12 oners into prerelease custody under this
13 title and the amendments made by this
14 title, including savings resulting from the
15 avoidance or deferral of future construc-
16 tion, acquisition, or operations costs;

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

1 (iii) a strategy to reinvest such sav-
2 ings into other Federal, State, and local
3 law enforcement activities and expansions
4 of recidivism reduction programs and pro-
5 ductive activities in the Bureau of Prisons.

6 (2) REINVESTMENT OF SAVINGS TO FUND PUB-
7 LIC SAFETY PROGRAMMING.—

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

12 (i) determine the covered amount for
13 the previous fiscal year in accordance with
14 subparagraph (B); and

15 (ii) use an amount of funds appro-
16 priated to the Department of Justice that
17 is not less than 90 percent of the covered
18 amount for the purposes described in sub-
19 paragraph (C).

20 (B) COVERED AMOUNT.—For purposes of
21 this paragraph, the term “covered amount”
22 means, using the most recent report submitted
23 under paragraph (1), the amount equal to the
24 sum of the amount described in paragraph
25 (1)(D)(i) for the fiscal year and the amount de-

1 scribed in paragraph (1)(D)(ii) for the fiscal
2 year.

3 (C) USE OF FUNDS.—The funds described
4 in subparagraph (A)(ii) shall be used, con-
5 sistent with paragraph (1)(D)(iii), to—

6 (i) ensure that, not later than 6 years
7 after the date of enactment of this Act, re-
8 cidivism reduction programs or productive
9 activities are available to all eligible pris-
10 oners;

11 (ii) ensure compliance with the re-
12 source needs of United States Probation
13 and Pretrial Services resulting from an
14 agreement under section 3624(c)(8) of title
15 18, United States Code, as added by this
16 title; and

17 (iii) supplement funding for programs
18 that increase public safety by providing re-
19 sources to State and local law enforcement
20 officials, including for the adoption of in-
21 novative technologies and information
22 sharing capabilities.

23 (b) PRISON WORK PROGRAMS REPORT.—Not later
24 than 180 days after the date of enactment of this Act,
25 the Attorney General shall submit to the appropriate com-

1 mittees of Congress a report on the status of prison work
2 programs at facilities operated by the Bureau of Prisons,
3 including—

4 (1) a strategy to expand the availability of such
5 programs without reducing job opportunities for
6 workers in the United States who are not in the cus-
7 tody of the Bureau of Prisons;

8 (2) an assessment of the feasibility of expand-
9 ing such programs, consistent with the strategy re-
10 quired under paragraph (1), so that, not later than
11 5 years after the date of enactment of this Act, not
12 less than 75 percent of eligible low-risk offenders
13 have the opportunity to participate in a prison work
14 program for not less than 20 hours per week; and

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

18 (c) REPORTING ON RECIDIVISM RATES.—

19 (1) IN GENERAL.—Beginning 1 year after the
20 date of enactment of this Act, and every year there-
21 after, the Attorney General, in consultation with the
22 Administrative Office of the United States Courts,
23 shall report to the appropriate committees of Con-
24 gress on rates of recidivism among individuals who

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

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

8 (A) Primary offense charged.

9 (B) Length of sentence imposed and
10 served.

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

13 (D) Recidivism reduction programming
14 that the prisoner successfully completed, if any.

15 (E) The prisoner's assessed risk of recidi-
16 vism.

17 (3) ASSISTANCE.—The Administrative Office of
18 the United States Courts shall provide to the Attor-
19 ney General any information in its possession that is
20 necessary for the completion of the report required
21 under paragraph (1).

22 (d) REPORTING ON EXCLUDED PRISONERS.—Not
23 later than 8 years after the date of enactment of this Act,
24 the Attorney General shall submit to the appropriate com-
25 mittees of Congress a report on the effectiveness of recidi-

1 vism reduction programs and productive activities offered
2 to prisoners described in section 3621(h)(6)(A)(iii) of title
3 18, United States Code, as added by this title, as well as
4 those ineligible for credit toward prerelease custody under
5 section 3624(c)(2) of title 18, United States Code, as
6 added by this title, which shall review the effectiveness of
7 different categories of incentives in reducing recidivism.

8 (e) DEFINITION.—The term “appropriate committees
9 of Congress” means—

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

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

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

21 (a) REENTRY AND RECOVERY PLANNING.—

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

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

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

6 “(b) REENTRY AND RECOVERY PLANNING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of the reduction awarded to the prisoner under
2 subparagraph (B).”.

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

6 (1) IN GENERAL.—Not later than 2 years after
7 the date of enactment of this Act, the Administrative
8 Office of the United States Courts shall establish a
9 recidivism reduction and recovery enhancement pilot
10 program, premised on high-intensity supervision and
11 the use of swift, predictable, and graduated sanc-
12 tions for noncompliance with program rules, in Fed-
13 eral judicial districts selected by the Administrative
14 Office of the United States Courts in consultation
15 with the Attorney General.

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

19 (A) Upon entry into the pilot program, the
20 court shall notify program participants of the
21 rules of the program and consequences for vio-
22 lating such rules, including the penalties to be
23 imposed as a result of such violations pursuant
24 to subparagraph (E).

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

4 (C) In the event that a probation officer
5 determines that a participant has violated a
6 term of supervised release, the officer shall no-
7 tify the court within 24 hours of such deter-
8 mination, absent good cause.

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

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

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

22 (ii) Referral to appropriate substance
23 abuse treatment.

24 (iii) Revocation of the defendant's su-
25 pervised release and the imposition of a

1 sentence of incarceration that is no longer
2 than necessary to punish the participant
3 for such violation and deter the participant
4 from committing future violations.

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

9 (3) STATUS OF PARTICIPANT IF INCARCER-
10 ATED.—

11 (A) IN GENERAL.—In the event that a pro-
12 gram participant is sentenced to incarceration
13 as described in paragraph (2)(E)(iii), the par-
14 ticipant shall remain in the program upon re-
15 lease from incarceration unless terminated from
16 the program in accordance with paragraph
17 (2)(E)(iv).

18 (B) POLICIES FOR MAINTAINING EMPLOY-
19 MENT.—The Bureau of Prisons, in consultation
20 with the Chief Probation Officers of the Federal
21 judicial districts selected for participation in the
22 pilot program required under paragraph (1),
23 shall develop policies to enable program partici-
24 pants sentenced to terms of incarceration as de-
25 scribed in paragraph (2)(E) to, where prac-

1 ticable, serve the terms of incarceration while
2 maintaining employment, including allowing the
3 terms of incarceration to be served on week-
4 ends.

5 (4) ADVISORY SENTENCING POLICIES.—

6 (A) IN GENERAL.—The United States Sen-
7 tencing Commission, in consultation with the
8 Chief Probation Officers, the United States At-
9 torneys, Federal Defenders, and Chief Judges
10 of the districts selected for participation in the
11 pilot program required under paragraph (1),
12 shall establish advisory sentencing policies to be
13 used by the district courts in imposing sen-
14 tences of incarceration in accordance with para-
15 graph (2)(E).

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

22 (5) DURATION OF PROGRAM.—The pilot pro-
23 gram required under paragraph (1) shall continue
24 for not less than 5 years and may be extended for

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

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

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

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

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

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

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

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

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

4 **SEC. 207. ERIC WILLIAMS CORRECTIONAL OFFICER PRO-**
5 **TECTION ACT.**

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

9 **“§ 4049. Officers and employees of the Bureau of Pris-**
10 **ons authorized to carry oleoresin cap-**
11 **sicum spray**

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

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

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

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

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

24 “(b) TRAINING REQUIREMENT.—

1 “(1) IN GENERAL.—In order for an officer or
2 employee of the Bureau of Prisons, including a cor-
3 rectional officer, to be eligible to receive and carry
4 oleoresin capsicum spray pursuant to this section,
5 the officer or employee shall complete a training
6 course before being issued such spray, and annually
7 thereafter, on the use of oleoresin capsicum spray.

8 “(2) TRANSFERABILITY OF TRAINING.—An offi-
9 cer or employee of the Bureau of Prisons who com-
10 pletes a training course pursuant to paragraph (1)
11 and subsequently transfers to employment at a dif-
12 ferent prison, shall not be required to complete an
13 additional training course solely due such transfer.

14 “(3) TRAINING CONDUCTED DURING REGULAR
15 EMPLOYMENT.—An officer or employee of the Bu-
16 reau of Prisons who completes a training course re-
17 quired under paragraph (1) shall do so during the
18 course of that officer or employee’s regular employ-
19 ment, and shall be compensated at the same rate
20 that the officer or employee would be compensated
21 for conducting the officer or employee’s regular du-
22 ties.

23 “(c) USE OF OLEORESIN CAPSICUM SPRAY.—Offi-
24 cers and employees of the Bureau of Prisons issued oleo-

1 resin capsicum spray pursuant to subsection (a) may use
2 such spray to reduce acts of violence—

3 “(1) committed by prisoners against themselves,
4 other prisoners, prison visitors, and officers and em-
5 ployees of the Bureau of Prisons; and

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

9 (b) CLERICAL AMENDMENT.—The table of sections
10 for chapter 303 of part III of title 18, United States Code,
11 is amended by inserting after the item relating to section
12 4048 the following:

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

13 (c) GAO REPORT.—Not later than the date that is
14 3 years after the date on which the Director of the Bureau
15 of Prisons begins to issue oleoresin capsicum spray to offi-
16 cers and employees of the Bureau of Prisons pursuant to
17 section 4049 of title 18, United States Code (as added
18 by this title), the Comptroller General of the United States
19 shall submit to Congress a report that includes the fol-
20 lowing:

21 (1) An evaluation of the effectiveness of issuing
22 oleoresin capsicum spray to officers and employees
23 of the Bureau of Prisons in prisons that are not
24 minimum or low security prisons on—

1 (A) reducing crime in such prisons; and

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

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

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

16 (B) the cost of issuing such spray in such
17 prisons. Recommendations to improve the safe-
18 ty of officers and employees of the Bureau of
19 Prisons in prisons.

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

21 (a) FEDERAL REENTRY DEMONSTRATION
22 PROJECTS.—

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

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

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

7 (i) conducting examinations of reentry
8 practices in State and local justice sys-
9 tems; and

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

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

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

1 ber of Federal judicial districts to conduct Federal
2 reentry demonstration projects using the best prac-
3 tices identified in the evaluation conducted under
4 paragraph (1). The Attorney General shall deter-
5 mine the appropriate number of Federal judicial dis-
6 tricts to conduct demonstration projects under this
7 paragraph.

8 (3) PROJECT DESIGN.—For each Federal judi-
9 cial district selected under paragraph (2), the United
10 States Attorney, in consultation with the Chief
11 Judge, Chief Federal Defender, the Chief Probation
12 Officer, the Bureau of Justice Assistance, the Na-
13 tional Institute of Justice, and criminal justice ex-
14 perts shall design a Federal reentry demonstration
15 project for the Federal judicial district in accordance
16 with paragraph (4).

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

22 (A) the use of community correctional fa-
23 cilities and home confinement, as determined to
24 be appropriate by the Bureau of Prisons;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (A) an assessment of the reentry burdens
21 borne by local communities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 “(e) PROCEDURES.—

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

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

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

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

22 “(3) APPLICATION.—

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

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

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

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

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

14 “(B) HEARING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (1) in paragraph (1)(B), by inserting “, upon
14 written request from either the Bureau of Prisons or
15 an eligible aging offender” after “to home deten-
16 tion”;

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

19 (3) in paragraph (5)(A)—

20 (A) in clause (i), by striking “65 years”
21 and inserting “60 years”;

22 (B) in clause (ii)—

23 (i) by striking “the greater of 10
24 years or”; and

1 (ii) by striking “75 percent” and in-
 2 serting “ $\frac{2}{3}$ ”;

3 (C) in clause (vi), by striking “and” at the
 4 end;

5 (D) in clause (vii), by striking the period
 6 at the and inserting “; and”; and

7 (E) by adding at the end the following:

8 “(viii) who—

9 (I) is receiving or in medical
 10 need of care at a nursing home, inter-
 11 mediate care facility, or assisted living
 12 facility, as those terms are defined in
 13 section 232 of the National Housing
 14 Act (12 U.S.C. 1715w); or

15 (II) has been diagnosed with a
 16 terminal illness.”.

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

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

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

23 (2) prevent the unauthorized use or disclosure
 24 of confidential juvenile delinquency records and any
 25 potential employment, financial, psychological, or

1 other harm that would result from such unauthor-
2 ized use or disclosure.

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

5 **“§ 5031. Definitions**

6 “In this chapter—

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

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

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

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

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

1 “(6) the term ‘expungement petition’ means a
2 petition for expungement filed under section
3 5044(b);

4 “(7) the term ‘juvenile’ means—

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

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

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

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

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

23 “(i) a criminal homicide, forcible rape
24 or any other sex offense (as defined in sec-
25 tion 111 of the Sex Offender Registration

1 and Notification Act (42 U.S.C. 16911)),
2 kidnapping, aggravated assault, robbery,
3 burglary of an occupied structure, arson,
4 or a drug trafficking crime in which a fire-
5 arm was used; or

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

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

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

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

15 “(10) the term ‘juvenile record’—

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

20 “(B) includes—

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

25 “(ii) a social record, including—

1 “(I) a record of a probation offi-
2 cer;

3 “(II) a record of any government
4 agency that keeps records relating to
5 juvenile delinquency;

6 “(III) a medical record;

7 “(IV) a psychiatric or psycho-
8 logical record;

9 “(V) a birth certificate;

10 “(VI) an education record, in-
11 cluding an individualized education
12 plan;

13 “(VII) a detention record;

14 “(VIII) demographic information
15 that identifies a juvenile or the family
16 of a juvenile; or

17 “(IX) any other record that in-
18 cludes personally identifiable informa-
19 tion that may be associated with a ju-
20 venile delinquency proceeding, an act
21 of juvenile delinquency, or an alleged
22 act of juvenile delinquency; and

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

1 “(C) does not include—

2 “(i) fingerprints; or

3 “(ii) a DNA sample;

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

6 “(12) the term ‘seal’ means—

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

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

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

15 “(14) the term ‘sealing petition’ means a peti-
16 tion for a sealing order filed under section
17 5043(b).”.

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

20 (1) in subsection (a), in the flush text following
21 paragraph (6), by inserting after “bonding,” the fol-
22 lowing: “participation in an educational system,”;
23 and

24 (2) in subsection (b), by striking “District
25 courts exercising jurisdiction over any juvenile” and

1 inserting the following: “Not later than 7 days after
 2 the date on which a district court exercises jurisdic-
 3 tion over a juvenile, the district court”.

4 (d) SEALING; EXPUNGEMENT.—

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

8 **“§ 5043. Sealing**

9 “(a) AUTOMATIC SEALING OF NONVIOLENT OF-
 10 FENSES.—

11 “(1) IN GENERAL.—Three years after the date
 12 on which a person who is adjudicated delinquent
 13 under this chapter for a juvenile nonviolent offense
 14 completes every term of probation, official detention,
 15 or juvenile delinquent supervision ordered by the
 16 court with respect to the offense, the court shall
 17 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
 20 adjudicated delinquent for an act of juvenile de-
 21 linquency since the date of the disposition; and

22 “(B) is not engaged in active criminal
 23 court proceedings or juvenile delinquency pro-
 24 ceedings.

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

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

10 “(b) PETITIONING FOR EARLY SEALING OF NON-
11 VIOLENT OFFENSES.—

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

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

23 “(i) has been convicted of a crime or
24 adjudicated delinquent for an act of juve-

1 nile delinquency since the date of the dis-
2 position; or

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

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

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

20 “(ii) on the date on which the indi-
21 vidual has completed every term of proba-
22 tion, official detention, or juvenile delin-
23 quent supervision ordered by the court
24 with respect to the offense.

25 “(2) PROCEDURES.—

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

6 “(i) to the Attorney General; and

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

10 “(I) the conduct of the petitioner

11 since the date of the offense; or

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

14 “(B) HEARING.—

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

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

20 “(II) determine whether to enter
21 a sealing order for the person in ac-
22 cordance with subparagraph (C).

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

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

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

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

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

22 “(C) BASIS FOR DECISION.—The court
23 shall determine whether to grant the sealing pe-
24 tition after considering—

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

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

6 “(iii) the best interests of the peti-
7 tioner;

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

11 “(v) the nature of the juvenile non-
12 violent offense;

13 “(vi) the disposition of the case;

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

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

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

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

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

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

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

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

24 “(i) describes—

1 “(I) the number of sealing peti-
2 tions granted and denied under this
3 subsection; and

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

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

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

13 “(H) PUBLIC DEFENDER ELIGIBILITY.—

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

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

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

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

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

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

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

20 “(c) EFFECT OF SEALING ORDER.—

21 “(1) PROTECTION FROM PERJURY LAWS.—Ex-
22 cept as provided in paragraph (4)(C)(i), if a court
23 orders the sealing of a juvenile record of a person
24 under subsection (a) or (b) with respect to a juvenile
25 nonviolent offense, the person shall not be held

1 under any provision of law to be guilty of perjury,
2 false swearing, or making a false statement by rea-
3 son of the person's failure to recite or acknowledge
4 the offense and any arrest, juvenile delinquency pro-
5 ceeding, adjudication, or other result of such pro-
6 ceeding relating to the offense in response to an in-
7 quiry made of the person for any purpose.

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

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

16 “(i) law enforcement agency; and

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

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

22 “(i) seal the record; and

23 “(ii) submit a written certification to
24 the court, under penalty of perjury, that

1 the entity or person has sealed each paper
2 and electronic copy of the record;

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

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

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

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

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

22 “(ii) for investigatory or prosecutorial
23 purposes within the juvenile justice system;
24 or

1 “(iii) for a background check that re-
2 lates to—

3 “(I) law enforcement employ-
4 ment; or

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

7 “(aa) national security posi-
8 tion; or

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

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

18 “(4) PROHIBITION ON DISCLOSURE.—

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

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

4 “(C) EXCEPTIONS.—

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

10 “(I) a person who is the subject
11 of a juvenile record sealed under this
12 section shall disclose the contents of
13 the record; and

14 “(II) a law enforcement agency
15 that possesses a juvenile record sealed
16 under this section—

17 “(aa) may disclose the con-
18 tents of the record; and

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

23 “(ii) DISCLOSURE TO ARMED
24 FORCES.—A person, including a law en-
25 forcement agency that possesses a juvenile

1 record sealed under this section, may dis-
2 close information from a juvenile record
3 sealed under this section to the Secretaries
4 of the military departments (or the Sec-
5 retary of Homeland Security with respect
6 to the Coast Guard when it is not oper-
7 ating as a service in the Navy) for the pur-
8 pose of vetting an enlistment or commis-
9 sion, or with regard to any member of the
10 Armed Forces.

11 “(iii) CRIMINAL AND JUVENILE PRO-
12 CEEDINGS.—A prosecutor may disclose in-
13 formation from a juvenile record sealed
14 under this section if the information per-
15 tains to a potential witness in a Federal or
16 State—

17 “(I) criminal proceeding; or

18 “(II) juvenile delinquency pro-
19 ceeding.

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

1 “(d) LIMITATION RELATING TO SUBSEQUENT INCI-
2 DENTS.—

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

12 “(2) AFTER PETITION GRANTED.—If, on or
13 after the date on which a court orders the sealing
14 of a juvenile record of a person under subsection (b),
15 the person is convicted of a crime, adjudicated delin-
16 quent for an act of juvenile delinquency, or engaged
17 in active criminal court proceedings or juvenile delin-
18 quency proceedings—

19 “(A) the court shall—

20 “(i) vacate the order; and

21 “(ii) notify the person who is the sub-
22 ject of the juvenile record, and each entity
23 or person described in subsection
24 (c)(2)(A), that the order has been vacated;
25 and

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

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

10 **“§ 5044. Expungement**

11 “(a) AUTOMATIC EXPUNGEMENT OF CERTAIN
12 RECORDS.—

13 “(1) ATTORNEY GENERAL MOTION.—

14 “(A) NONVIOLENT OFFENSES COMMITTED
15 BEFORE A PERSON TURNED 15.—If a person is
16 adjudicated delinquent under this chapter for a
17 juvenile nonviolent offense committed before the
18 person attained 15 years of age, on the date on
19 which the person attains 18 years of age, the
20 Attorney General shall file a motion in the dis-
21 trict court of the United States in which the
22 person was adjudicated delinquent requesting
23 that each juvenile record of the person that re-
24 lates to the offense be expunged.

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

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

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

1 currently order that each juvenile record relating to
2 the applicable proceeding be expunged.

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

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

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

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

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

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

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

7 “(2) PROCEDURES.—

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

13 “(i) to the Attorney General; and

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

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

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

21 “(B) HEARING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(vi) the disposition of the case;

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

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

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

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

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

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

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

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

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

3 “(i) describes—

4 “(I) the number of expungement
5 petitions granted and denied under
6 this subsection; and

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

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

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

16 “(H) PUBLIC DEFENDER ELIGIBILITY.—

17 “(i) PETITIONERS UNDER AGE 18.—

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

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

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

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

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

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

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

24 “(1) PROTECTION FROM PERJURY LAWS.—Ex-
 25 cept as provided in paragraph (4)(C), if a court or-

1 ders the expungement of a juvenile record of a per-
2 son under subsection (a) or (b) with respect to a ju-
3 venile nonviolent offense, the person shall not be
4 held under any provision of law to be guilty of per-
5 jury, false swearing, or making a false statement by
6 reason of the person’s failure to recite or acknowl-
7 edge the offense and any arrest, juvenile delinquency
8 proceeding, adjudication, or other result of such pro-
9 ceeding relating to the offense in response to an in-
10 quiry made of the person for any purpose.

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

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

19 “(i) law enforcement agency; and

20 “(ii) public or private correctional or
21 detention facility;

22 “(B) in the expungement order—

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

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

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

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

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

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

24 “(D) after receiving a written certification
25 from each entity or person under subparagraph

1 (B)(i)(III), notify the petitioner that each entity
2 or person described in subparagraph (A) has
3 destroyed each paper and electronic copy of the
4 record.

5 “(3) REPLY TO INQUIRIES.—On and after the
6 date that is 1 year after the date on which a court
7 orders the expungement of a juvenile record of a
8 person under this section, in the case of an inquiry
9 relating to the juvenile record, the court, each law
10 enforcement officer, any agency that provided treat-
11 ment or rehabilitation services to the person, and the
12 person (except as provided in paragraph (5)) shall
13 reply to the inquiry that no such juvenile record ex-
14 ists.

15 “(4) CIVIL ACTIONS.—

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

1 lution of the issues presented in the action,
2 there shall be a rebuttable presumption that the
3 defendant has a complete defense to the action.

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

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

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

22 “(5) CRIMINAL AND JUVENILE PRO-
23 CEEDINGS.—On and after the date that is 1 year
24 after the date on which a court orders the
25 expungement of a juvenile record under this section,

1 a prosecutor may disclose underlying information
2 from the juvenile record if the information—

3 “(A) is derived from a source other than
4 the juvenile record; and

5 “(B) pertains to a potential witness in a
6 Federal or State—

7 “(i) criminal proceeding; or

8 “(ii) juvenile delinquency proceeding.

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

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

20 “(d) LIMITATION RELATING TO SUBSEQUENT INCI-
21 DENTS.—

22 “(1) AFTER FILING AND BEFORE PETITION
23 GRANTED.—If, after the date on which a person files
24 an expungement petition with respect to a juvenile
25 offense and before the court determines whether to

1 grant the petition, the person is convicted of a
 2 crime, adjudicated delinquent for an act of juvenile
 3 delinquency, or engaged in active criminal court pro-
 4 ceedings or juvenile delinquency proceedings, the
 5 court shall deny the petition.

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

13 “(A) the court that ordered the
 14 expungement shall—

15 “(i) vacate the order; and

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

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

22 “(e) INCLUSION OF STATE JUVENILE DELINQUENCY
 23 ADJUDICATIONS AND PROCEEDINGS.—For purposes of
 24 subparagraphs (A) and (B) of subsection (b)(1) and para-
 25 graphs (1) and (2) of subsection (d), the term ‘juvenile

1 delinquency' includes the violation of a law of a State com-
 2 mitted by a person before attaining the age of 18 which
 3 would have been a crime if committed by an adult.”.

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

“5043. Sealing.

“5044. Expungement.”.

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

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

20 **SEC. 212. JUVENILE SOLITARY CONFINEMENT.**

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

1 **“§ 5045. Juvenile solitary confinement**

2 “(a) DEFINITIONS.—In this section—

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

4 “(A) a juvenile who—

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

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

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

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

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

17 “(B) detained prior to disposition or con-
18 viction; and

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

22 “(b) PROHIBITION ON ROOM CONFINEMENT IN JU-
23 VENILE FACILITIES.—

24 “(1) IN GENERAL.—The use of room confine-
25 ment at a juvenile facility for discipline, punishment,
26 retaliation, or any reason other than as a temporary

1 response to a covered juvenile’s behavior that poses
2 a serious and immediate risk of physical harm to
3 any individual, including the covered juvenile, is pro-
4 hibited.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 “(B) the term ‘incomplete’, with respect to
5 a record, means the record—

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

9 “(ii) indicates that an individual was
10 arrested or criminal proceedings were insti-
11 tuted against an individual but does not
12 include the final disposition of the arrest
13 or of the proceedings if a final disposition
14 has been reached;

15 “(C) the term ‘record’ means a record or
16 other information collected under this section
17 that relates to—

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

20 “(ii) a Federal criminal proceeding;

21 “(D) the term ‘reporting jurisdiction’
22 means any person or entity that provides a
23 record to the Attorney General under this sec-
24 tion; and

25 “(E) the term ‘requesting entity’—

1 “(i) means a person or entity that
2 seeks the exchange of a record for civil
3 purposes that include employment, hous-
4 ing, credit, or any other type of applica-
5 tion; and

6 “(ii) does not include a law enforce-
7 ment or intelligence agency that seeks the
8 exchange of a record for—

9 “(I) investigative purposes; or

10 “(II) purposes relating to law en-
11 forcement employment.

12 “(2) INCOMPLETE OR INACCURATE RECORDS.—

13 The Attorney General shall establish and enforce
14 procedures to ensure the prompt release of accurate
15 records exchanged for employment-related purposes
16 through the records system created under this sec-
17 tion.

18 “(3) REQUIRED PROCEDURES.—The procedures
19 established under paragraph (2) shall include the
20 following:

21 “(A) INACCURATE RECORD OR INFORMA-
22 TION.—If the Attorney General determines that
23 a record is inaccurate, the Attorney General
24 shall promptly correct the record, including by
25 making deletions to the record if appropriate.

1 “(B) INCOMPLETE RECORD.—

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

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

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

12 “(ii) LACK OF DISPOSITION OF AR-
13 REST.—For purposes of this subpara-
14 graph, an incomplete record includes a
15 record that indicates there was an arrest
16 and does not include the disposition of the
17 arrest.

18 “(iii) OBTAINING DISPOSITION OF AR-
19 REST.—If the Attorney General determines
20 that a record is an incomplete record de-
21 scribed in clause (ii), the Attorney General
22 shall, not later than 10 days after the date
23 on which the requesting entity requests the
24 exchange and before the exchange is made,

1 obtain the disposition (if any) of the ar-
2 rest.

3 “(C) NOTIFICATION OF REPORTING JURIS-
4 DICTION.—The Attorney General shall notify
5 each appropriate reporting jurisdiction of any
6 action taken under subparagraph (A) or (B).

7 “(D) OPPORTUNITY TO REVIEW RECORDS
8 BY APPLICANT.—In connection with an ex-
9 change of a record under this section, the At-
10 torney General shall—

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

16 “(ii) provide to the applicant an op-
17 portunity, upon request and in accordance
18 with clause (i), to—

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

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

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

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

4 “(v) provide to the applicant the spe-
5 cific findings and results of that investiga-
6 tion;

7 “(vi) promptly make any changes or
8 deletions to the records required as a re-
9 sult of the challenge; and

10 “(vii) report those changes to the re-
11 questing entity.

12 “(E) CERTAIN EXCHANGES PROHIBITED.—

13 “(i) IN GENERAL.—An exchange shall
14 not include any record—

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

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

1 “(III) to the extent the record is
2 not clearly an arrest or a disposition
3 of an arrest.

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

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

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

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

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

16 “(4) FEES.—The Attorney General may collect
17 a reasonable fee for an exchange of records for em-
18 ployment-related purposes through the records sys-
19 tem created under this section to defray the costs
20 associated with exchanges for those purposes, includ-
21 ing any costs associated with the investigation of in-
22 accurate or incomplete records.”.

23 (b) REGULATIONS ON REASONABLE PROCEDURES.—
24 Not later than 1 year after the date of enactment of this
25 Act, the Attorney General shall issue regulations to carry

1 out section 534(g) of title 28, United States Code, as
2 added by subsection (a).

3 (c) REPORT.—

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

8 (2) REPORT REQUIRED.—Not later than 2
9 years after the date of enactment of this Act, the
10 Attorney General shall submit to Congress a report
11 on the implementation of subsection (g) of section
12 534 of title 28, United States Code, as added by
13 subsection (a), that includes—

14 (A) the number of exchanges of records for
15 employment-related purposes made with entities
16 in each State through the records system cre-
17 ated under such section 534;

18 (B) any prolonged failure of a Federal
19 agency to comply with a request by the Attor-
20 ney General for information about dispositions
21 of arrests; and

22 (C) the numbers of successful and unsuc-
23 cessful challenges to the accuracy and complete-

- 1 ness of records, organized by the Federal agen-
- 2 cy from which each record originated.

○