

116TH CONGRESS
1ST SESSION

S. 697

To reform sentencing, prisons, re-entry of prisoners, and law enforcement practices, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2019

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reform sentencing, prisons, re-entry of prisoners, and law enforcement practices, 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 “Next Step Act of 2019”.

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

Sec. 1. Short title; table of contents.

DIVISION A—SENTENCING REFORM: ENDING MASS
INCARCERATION

TITLE I—ELIMINATION OF CRACK COCAINE SENTENCING
DISPARITY

Sec. 101. Elimination of increased penalties for cocaine offenses where the cocaine involved is cocaine base.

TITLE II—MARIJUANA JUSTICE ACT

Sec. 201. Short title.
 Sec. 202. De-scheduling marihuana.
 Sec. 203. Ineligibility for certain funds.
 Sec. 204. Community Reinvestment Fund.

TITLE III—SMARTER SENTENCING ACT

Sec. 301. Short title.
 Sec. 302. Sentencing modifications for certain drug offenses.
 Sec. 303. Directive to the Sentencing Commission.
 Sec. 304. Report by Attorney General.
 Sec. 305. Report on Federal criminal offenses.

TITLE IV—PAROLE FOR JUVENILES

Sec. 401. Parole for juveniles.

TITLE V—REVERSE MASS INCARCERATION

Sec. 501. Short title.
 Sec. 502. Grant program.

DIVISION B—PRISON REFORM

TITLE VI—DIGNITY ACT

Sec. 601. Short title.
 Sec. 602. Treatment of primary caretaker parents and other individuals in Federal prisons.
 Sec. 603. Overnight visit pilot program.

DIVISION C—RE-ENTRY REFORM: REDUCING THE COLLATERAL CONSEQUENCES OF CONVICTION

TITLE VII—FAIR CHANCE ACT

Sec. 701. Short title.
 Sec. 702. Prohibition on criminal history inquiries prior to conditional offer for Federal employment.
 Sec. 703. Prohibition on criminal history inquiries by contractors prior to conditional offer.
 Sec. 704. Report on employment of individuals formerly incarcerated in Federal prisons.

TITLE VIII—FAIR CHANCE LICENSING ACT

Sec. 801. Short title.
 Sec. 802. Restrictions on use of criminal records to disqualify individuals from employment, occupational licensing, or occupational certification.
 Sec. 803. Transparency and accountability study.

TITLE IX—REDEEM ACT

- Sec. 901. Short title.
- Sec. 902. Sealing of criminal records.
- Sec. 903. Juvenile sealing and expungement.
- Sec. 904. Study and report on cost savings from sealing and expungement provisions.
- Sec. 905. TANF assistance and SNAP benefits.
- Sec. 906. State incentives.
- Sec. 907. Gender equality in Federal juvenile delinquency proceedings.
- Sec. 908. Ensuring accuracy in the FBI background check system.
- Sec. 909. Report on statutory and regulatory restrictions and disqualifications based on criminal records.

TITLE X—DEMOCRACY RESTORATION ACT

- Sec. 1001. Short title.
- Sec. 1002. Findings.
- Sec. 1003. Definitions.
- Sec. 1004. Rights of citizens.
- Sec. 1005. Enforcement.
- Sec. 1006. Notification of restoration of voting rights.
- Sec. 1007. Relation to other laws.
- Sec. 1008. Federal prison funds.
- Sec. 1009. Effective date.

TITLE XI—NEW PATHWAYS ACT

- Sec. 1101. Short title.
- Sec. 1102. Identification for returning citizens.

DIVISION D—POLICE REFORM

TITLE XII—PRIDE ACT

- Sec. 1201. Short title.
- Sec. 1202. Definitions.
- Sec. 1203. Use of force reporting.
- Sec. 1204. Community and law enforcement partnership grant program.
- Sec. 1205. Compliance with reporting requirements.
- Sec. 1206. Authorization of appropriations.

TITLE XIII—END RACIAL AND RELIGIOUS PROFILING ACT

- Sec. 1301. Short title.
- Sec. 1302. Definitions.

Subtitle A—Prohibition of Racial Profiling

- Sec. 1311. Prohibition.
- Sec. 1312. Enforcement.

Subtitle B—Programs To Eliminate Racial Profiling By Federal Law Enforcement Agencies

- Sec. 1321. Policies to eliminate racial profiling.

Subtitle C—Programs To Eliminate Racial Profiling By State, Local, and Indian Tribal Law Enforcement Agencies

- Sec. 1331. Policies required for grants.

Sec. 1332. Involvement of Attorney General.
 Sec. 1333. Data collection demonstration project.
 Sec. 1334. Best practices development grants.
 Sec. 1335. Authorization of appropriations.

Subtitle D—Data Collection

Sec. 1341. Attorney General to issue regulations.
 Sec. 1342. Publication of data.
 Sec. 1343. Limitations on publication of data.

Subtitle E—Department of Justice Regulations and Reports on Racial
 Profiling in the United States

Sec. 1351. Attorney General to issue regulations and reports.

Subtitle F—Miscellaneous Provisions

Sec. 1361. Severability.
 Sec. 1362. Savings clause.

1 DIVISION A—SENTENCING RE-
2 FORM: ENDING MASS INCAR-
3 CERATION

4 TITLE I—ELIMINATION OF
5 CRACK COCAINE SENTENC-
6 ING DISPARITY

7 SEC. 101. ELIMINATION OF INCREASED PENALTIES FOR CO-
8 CAINE OFFENSES WHERE THE COCAINE IN-
9 VOLVED IS COCAINE BASE.

10 (a) CONTROLLED SUBSTANCES ACT.—The following
11 provisions of the Controlled Substances Act (21 U.S.C.
12 801 et seq.) are repealed:

13 (1) Clause (iii) of section 401(b)(1)(A).

14 (2) Clause (iii) of section 401(b)(1)(B).

15 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
16 ACT.—The following provisions of the Controlled Sub-

stances Import and Export Act (21 U.S.C. 951 et seq.)
are repealed:

(1) Subparagraph (C) of section 1010(b)(1).

(2) Subparagraph (C) of section 1010(b)(2).

(c) APPLICABILITY TO PENDING AND PAST CASES.—

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

(2) PAST CASES.—In the case of a defendant who, before the date of enactment of this Act, was convicted of an offense for which the penalty is amended by this section and was sentenced to a term of imprisonment for the offense, the sentencing court may, on motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, reduce the term of imprisonment for the offense, after considering the factors set forth in section 3553(a) of title 18, United States Code, to the extent the factors are applicable, if such a reduction is consistent with—

(A) this section and the amendments made by this section; and

1 (B) applicable policy statements issued by
2 the United States Sentencing Commission.

3 **TITLE II—MARIJUANA JUSTICE**
4 **ACT**

5 **SEC. 201. SHORT TITLE.**

6 This title may be cited as the “Marijuana Justice Act
7 of 2019”.

8 **SEC. 202. DE-SCHEDULING MARIHUANA.**

9 (a) MARIHUANA REMOVED FROM SCHEDULE OF
10 CONTROLLED SUBSTANCES.—Subsection (c) of schedule
11 I of section 202(c) of the Controlled Substances Act (21
12 U.S.C. 812) is amended—

13 (1) by striking “marihuana”; and

14 (2) by striking “tetrahydrocannabinols”.

15 (b) REMOVAL OF PROHIBITION ON IMPORT AND EX-
16 PORT.—Section 1010(b) of the Controlled Substances Im-
17 port and Export Act (21 U.S.C. 960) is amended—

18 (1) in paragraph (1)—

19 (A) in subparagraph (F), by inserting “or”
20 after the semicolon;

21 (B) by striking subparagraph (G); and

22 (C) by redesignating subparagraph (H) as
23 subparagraph (G);

24 (2) in paragraph (2)—

1 (A) in subparagraph (F), by inserting “or”
 2 after the semicolon;

3 (B) by striking subparagraph (G); and

4 (C) by redesignating subparagraph (H) as
 5 subparagraph (G);

6 (3) in paragraph (3), by striking “paragraphs
 7 (1), (2), and (4)” and inserting “paragraphs (1) and
 8 (2)”;

9 (4) by striking paragraph (4); and

10 (5) by redesignating paragraphs (5), (6), and
 11 (7) as paragraphs (4), (5), and (6), respectively.

12 (c) CONFORMING AMENDMENTS TO CONTROLLED
 13 SUBSTANCES ACT.—The Controlled Substances Act (21
 14 U.S.C. 801 et seq.) is amended—

15 (1) in section 102(44) (21 U.S.C. 802(44)), by
 16 striking “marihuana,”;

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

18 (A) in paragraph (1)—

19 (i) in subparagraph (A)—

20 (I) in clause (vi), by inserting
 21 “or” after the semicolon;

22 (II) by striking (vii); and

23 (III) by redesignating clause
 24 (viii) as clause (vii);

25 (ii) in subparagraph (B)—

- 1 (I) by striking clause (vii); and
- 2 (II) by redesignating clause (viii)
- 3 as clause (vii);
- 4 (iii) in subparagraph (C), in the first
- 5 sentence, by striking “subparagraphs (A),
- 6 (B), and (D)” and inserting “subpara-
- 7 graphs (A) and (B)”;
- 8 (iv) by striking subparagraph (D);
- 9 (v) by redesignating subparagraph (E)
- 10 as subparagraph (D); and
- 11 (vi) in subparagraph (D)(i), as so re-
- 12 designated, by striking “subparagraphs (C)
- 13 and (D)” and inserting “subparagraph
- 14 (C)”;
- 15 (B) by striking paragraph (4); and
- 16 (C) by redesignating paragraphs (5), (6),
- 17 and (7) as paragraphs (4), (5), and (6), respec-
- 18 tively;
- 19 (3) in section 402(c)(2)(B) (21 U.S.C.
- 20 842(c)(2)(B)), by striking “, marihuana,”;
- 21 (4) in section 403(d)(1) (21 U.S.C. 843(d)(1)),
- 22 by striking “, marihuana,”;
- 23 (5) in section 418(a) (21 U.S.C. 859(a)), by
- 24 striking the last sentence;

1 (6) in section 419(a) (21 U.S.C. 860(a)), by
 2 striking the last sentence;

3 (7) in section 422(d) (21 U.S.C. 863(d))—

4 (A) in the matter preceding paragraph (1),
 5 by striking “marijuana,”; and

6 (B) in paragraph (5), by striking “, such
 7 as a marihuana cigarette,”; and

8 (8) in section 516(d) (21 U.S.C. 886(d)), by
 9 striking “section 401(b)(6)” each place the term ap-
 10 pears and inserting “section 401(b)(5)”.

11 (d) OTHER CONFORMING AMENDMENTS.—

12 (1) NATIONAL FOREST SYSTEM DRUG CONTROL
 13 ACT OF 1986.—The National Forest System Drug
 14 Control Act of 1986 (16 U.S.C. 559b et seq.) is
 15 amended—

16 (A) in section 15002(a) (16 U.S.C.
 17 559b(a)) by striking “marijuana and other”;

18 (B) in section 15003(2) (16 U.S.C.
 19 559c(2)) by striking “marijuana and other”;
 20 and

21 (C) in section 15004(2) (16 U.S.C.
 22 559d(2)) by striking “marijuana and other”.

23 (2) INTERCEPTION OF COMMUNICATIONS.—Sec-
 24 tion 2516 of title 18, United States Code, is amend-
 25 ed—

1 (A) in subsection (1)(e), by striking “mari-
2 huana,”; and

3 (B) in subsection (2) by striking “mari-
4 huana,”.

5 **SEC. 203. INELIGIBILITY FOR CERTAIN FUNDS.**

6 (a) DEFINITIONS.—In this section—

7 (1) the term “covered State” means a State
8 that has not enacted a statute legalizing marijuana
9 in the State;

10 (2) the term “disproportionate arrest rate”
11 means—

12 (A) the percentage of minority individuals
13 arrested for a marijuana related offense in a
14 State is higher than the percentage of the non-
15 minority individual population of the State, as
16 determined by the most recent census data; or

17 (B) the percentage of low-income individ-
18 uals arrested for a marijuana offense in a State
19 is higher than the percentage of the population
20 of the State that are not low-income individ-
21 uals, as determined by the most recent census
22 data;

23 (3) the term “disproportionate incarceration
24 rate” means the percentage of minority individuals
25 incarcerated for a marijuana related offense in a

1 State is higher than the percentage of the non-mi-
 2 nority individual population of the State, as deter-
 3 mined by the most recent census data;

4 (4) the term “low-income individual” means an
 5 individual whose taxable income (as defined in sec-
 6 tion 63 of the Internal Revenue Code of 1986) is
 7 equal to or below the maximum dollar amount for
 8 the 15 percent rate bracket applicable to the indi-
 9 vidual under section 1 of the Internal Revenue Code
 10 of 1986;

11 (5) the term “marijuana” has the meaning
 12 given the term “marihuana” in section 102 of the
 13 Controlled Substances Act (21 U.S.C. 802); and

14 (6) the term “minority individual” means an in-
 15 dividual who is a member of a racial or ethnic mi-
 16 nority group.

17 (b) INELIGIBILITY FOR CERTAIN FUNDS.—

18 (1) IN GENERAL.—For any fiscal year begin-
 19 ning after the date of enactment of this Act in which
 20 the Attorney General, acting through the Director of
 21 the Bureau of Justice Assistance, determines that a
 22 covered State has a disproportionate arrest rate or
 23 a disproportionate incarceration rate for marijuana
 24 offenses, the covered State—

1 (A) shall not be eligible to receive any Fed-
2 eral funds for the construction or staffing of a
3 prison or jail; and

4 (B) shall be subject to not more than a 10-
5 percent reduction of the funds that would oth-
6 erwise be allocated for that fiscal year to the
7 covered State under subpart 1 of part E of title
8 I of the Omnibus Crime Control and Safe
9 Streets Act of 1968 (34 U.S.C. 3750 et seq.),
10 whether characterized as the Edward Byrne
11 Memorial State and Local Law Enforcement
12 Assistance Programs, the Local Government
13 Law Enforcement Block Grants Program, the
14 Edward Byrne Memorial Justice Assistance
15 Grant Program, or otherwise.

16 (2) FUNDS FOR CERTAIN PROGRAMMING.—For
17 purposes of paragraph (1)(A), Federal funds for the
18 construction or staffing of a prison or jail shall not
19 include Federal funds used by a prison or jail to
20 carry out recidivism reduction programming or drug
21 addiction treatment.

22 (3) REALLOCATION.—Any amounts not award-
23 ed to a covered State because of a determination
24 under paragraph (1) shall be deposited in the Com-

1 munity Reinvestment Fund established under section
2 104.

3 (c) EXPUNGEMENT OF MARIJUANA OFFENSE CON-
4 VICTIONS.—Each Federal court shall issue an order
5 expunging each conviction for a marijuana use or posses-
6 sion offense entered by the court before the date of enact-
7 ment of this Act.

8 (d) SENTENCING REVIEW.—

9 (1) IN GENERAL.—For any individual who was
10 sentenced to a term of imprisonment for a Federal
11 criminal offense involving marijuana before the date
12 of enactment of this Act and is still serving such
13 term of imprisonment, the court that imposed the
14 sentence, shall, on motion of the individual, the Di-
15 rector of the Bureau of Prisons, the attorney for the
16 Government, or the court, conduct a sentencing
17 hearing.

18 (2) POTENTIAL REDUCED RESENTENCING.—
19 After a sentencing hearing under paragraph (1), a
20 court may impose a sentence on the individual as if
21 this title, and the amendments made by this title,
22 were in effect at the time the offense was committed.

23 (e) RIGHT OF ACTION.—

24 (1) IN GENERAL.—An individual who is ag-
25 grieved by a disproportionate arrest rate or a dis-

1 proportionate incarceration rate of a State may
 2 bring a civil action in an appropriate district court
 3 of the United States.

4 (2) RELIEF.—In a civil action brought under
 5 this subsection in which the plaintiff prevails, the
 6 court shall—

7 (A) grant all necessary equitable and legal
 8 relief, including declaratory relief; and

9 (B) issue an order requiring the Attorney
 10 General, acting through the Director of the Bu-
 11 reau of Justice Assistance, to—

12 (i) declare the State to be ineligible to
 13 receive any Federal funds for the construc-
 14 tion or staffing of a prison or jail in ac-
 15 cordance with subsection (b)(1)(A); and

16 (ii) reduce grant funding of the State
 17 in accordance with subsection (b)(1)(B).

18 **SEC. 204. COMMUNITY REINVESTMENT FUND.**

19 (a) ESTABLISHMENT.—There is established in the
 20 Treasury of the United States a fund, to be known as the
 21 “Community Reinvestment Fund” (referred to in this sec-
 22 tion as the “Fund”).

23 (b) DEPOSITS.—The Fund shall consist of—

1 (1) any amounts not awarded to a covered
2 State because of a determination under section
3 203(b)(1); and

4 (2) any amounts otherwise appropriated to the
5 Fund.

6 (c) USE OF FUND AMOUNTS.—Amounts in the Fund
7 shall be available to the Secretary of Housing and Urban
8 Development to establish a grant program to reinvest in
9 communities most affected by the war on drugs, which
10 shall include providing grants to impacted communities for
11 programs such as—

12 (1) job training;

13 (2) reentry services;

14 (3) expenses related to the expungement of con-
15 victions;

16 (4) public libraries;

17 (5) community centers;

18 (6) programs and opportunities dedicated to
19 youth;

20 (7) the special purpose fund discussed below;

21 and

22 (8) health education programs.

23 (d) AVAILABILITY OF FUND AMOUNTS.—Amounts in
24 the Fund shall be available without fiscal year limitation.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated to the Fund
 3 \$500,000,000 for each of fiscal years 2019 through 2041.

4 **TITLE III—SMARTER** 5 **SENTENCING ACT**

6 **SEC. 301. SHORT TITLE.**

7 This title may be cited as the “Smarter Sentencing
 8 Act of 2019”.

9 **SEC. 302. SENTENCING MODIFICATIONS FOR CERTAIN** 10 **DRUG OFFENSES.**

11 (a) CONTROLLED SUBSTANCES ACT.—The Con-
 12 trolled Substances Act (21 U.S.C. 801 et seq.) is amend-
 13 ed—

14 (1) in section 102 (21 U.S.C. 802)—

15 (A) by redesignating paragraph (58) as
 16 paragraph (59);

17 (B) by redesignating the second paragraph
 18 (57) (relating to the term “serious drug fel-
 19 ony”) as paragraph (58); and

20 (C) by adding at the end the following:

21 “(60) The term ‘courier’ means a defendant whose
 22 role in the offense was limited to transporting or storing
 23 drugs or money.”; and

24 (2) in section 401(b)(1) (21 U.S.C.
 25 841(b)(1))—

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

3 (i) by striking “10 years or more”
 4 and inserting “5 years or more”;

5 (ii) by striking “such person shall be
 6 sentenced to a term of imprisonment which
 7 may not be less than 15 years and” and
 8 inserting “such person shall be sentenced
 9 to a term of imprisonment of not less than
 10 10 years and”; and

11 (B) in subparagraph (B), in the flush text
 12 following clause (viii)—

13 (i) by striking “5 years” and inserting
 14 “2 years”; and

15 (ii) by striking “not be less than 10
 16 years” and inserting “not be less than 5
 17 years”.

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

21 (1) in paragraph (1), in the flush text following
 22 subparagraph (H)—

23 (A) by inserting “, other than a person
 24 who is a courier,” after “such violation”;

1 (B) by striking “person commits” and in-
2 serting “person, other than a courier, com-
3 mits”; and

4 (C) by inserting “If a person who is a cou-
5 rier commits such a violation, the person shall
6 be sentenced to a term of imprisonment of not
7 less than 5 years and not more than life. If a
8 person who is a courier commits such a viola-
9 tion after a prior conviction for a felony drug
10 offense has become final, the person shall be
11 sentenced to a term of imprisonment of not less
12 than 10 years and not more than life.” before
13 “Notwithstanding section 3583”; and

14 (2) in paragraph (2), in the flush text following
15 subparagraph (H)—

16 (A) by inserting “, other than a person
17 who is a courier,” after “such violation”;

18 (B) by striking “person commits” and in-
19 serting “person, other than a courier, com-
20 mits”; and

21 (C) by inserting “If a person who is a cou-
22 rier commits such a violation, the person shall
23 be sentenced to a term of imprisonment of not
24 less than 2 years and not more than life. If a
25 person who is a courier commits such a viola-

1 tion after a prior conviction for a felony drug
2 offense has become final, the person shall be
3 sentenced to a term of imprisonment of not less
4 than 5 years and not more than life.” before
5 “Notwithstanding section 3583”.

6 **SEC. 303. DIRECTIVE TO THE SENTENCING COMMISSION.**

7 (a) DIRECTIVE TO SENTENCING COMMISSION.—Pur-
8 suant to its authority under section 994(p) of title 28,
9 United States Code, and in accordance with this section,
10 the United States Sentencing Commission shall review and
11 amend, if appropriate, its guidelines and its policy state-
12 ments applicable to persons convicted of an offense under
13 section 401 of the Controlled Substances Act (21 U.S.C.
14 841) or section 1010 of the Controlled Substances Import
15 and Export Act (21 U.S.C. 960) to ensure that the guide-
16 lines and policy statements are consistent with the amend-
17 ments made by section 302 of this title and reflect the
18 intent of Congress that such penalties be decreased in ac-
19 cordance with the amendments made by such section 302.

20 (b) CONSIDERATIONS.—In carrying out this section,
21 the United States Sentencing Commission shall con-
22 sider—

23 (1) the mandate of the United States Sen-
24 tencing Commission, under section 994(g) of title
25 28, United States Code, to formulate the sentencing

1 guidelines in such a way as to “minimize the likeli-
2 hood that the Federal prison population will exceed
3 the capacity of the Federal prisons”;

4 (2) the findings and conclusions of the United
5 States Sentencing Commission in its October 2011
6 report to Congress entitled, Mandatory Minimum
7 Penalties in the Federal Criminal Justice System;

8 (3) the fiscal implications of any amendments
9 or revisions to the sentencing guidelines or policy
10 statements made by the United States Sentencing
11 Commission;

12 (4) the relevant public safety concerns involved
13 in the considerations before the United States Sen-
14 tencing Commission;

15 (5) the intent of Congress that penalties for
16 violent, repeat, and serious drug traffickers who
17 present public safety risks remain appropriately se-
18 vere; and

19 (6) the need to reduce and prevent racial dis-
20 parities in Federal sentencing.

21 (c) EMERGENCY AUTHORITY.—The United States
22 Sentencing Commission shall—

23 (1) promulgate the guidelines, policy state-
24 ments, or amendments provided for in this Act as
25 soon as practicable, and in any event not later than

1 120 days after the date of enactment of this Act, in
2 accordance with the procedure set forth in section
3 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994
4 note), as though the authority under that Act had
5 not expired; and

6 (2) pursuant to the emergency authority pro-
7 vided under paragraph (1), make such conforming
8 amendments to the Federal sentencing guidelines as
9 the Commission determines necessary to achieve
10 consistency with other guideline provisions and ap-
11 plicable law.

12 **SEC. 304. REPORT BY ATTORNEY GENERAL.**

13 Not later than 6 months after the date of enactment
14 of this Act, the Attorney General shall submit to the Com-
15 mittees on the Judiciary of the House of Representatives
16 and the Senate a report outlining how the reduced expend-
17 itures on Federal corrections and the cost savings result-
18 ing from this Act will be used to help reduce overcrowding
19 in the Federal Bureau of Prisons, help increase proper in-
20 vestment in law enforcement and crime prevention, and
21 help reduce criminal recidivism, thereby increasing the ef-
22 fectiveness of Federal criminal justice spending.

23 **SEC. 305. REPORT ON FEDERAL CRIMINAL OFFENSES.**

24 (a) DEFINITIONS.—In this section—

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

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

6 (b) REPORT ON CRIMINAL STATUTORY OFFENSES.—
7 Not later than 1 year after the date of enactment of this
8 Act, the Attorney General shall submit to the Committee
9 on the Judiciary of the Senate and the Committee on the
10 Judiciary of the House of Representatives a report, which
11 shall include—

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

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

17 (A) the potential criminal penalty for the
18 criminal statutory offense;

19 (B) the number of prosecutions for the
20 criminal statutory offense brought by the De-
21 partment of Justice each year for the 15-year
22 period preceding the date of enactment of this
23 Act; and

24 (C) the mens rea requirement for the
25 criminal statutory offense.

1 (c) REPORT ON CRIMINAL REGULATORY OF-
2 FENSES.—

3 (1) REPORTS.—Not later than 1 year after the
4 date of enactment of this Act, the head of each Fed-
5 eral agency described in paragraph (2) shall submit
6 to the Committee on the Judiciary of the Senate and
7 the Committee on the Judiciary of the House of
8 Representatives a report, which shall include—

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

11 (B) for each criminal regulatory offense
12 listed under subparagraph (A)—

13 (i) the potential criminal penalty for a
14 violation of the criminal regulatory offense;

15 (ii) the number of violations of the
16 criminal regulatory offense referred to the
17 Department of Justice for prosecution in
18 each of the years during the 15-year period
19 preceding the date of enactment of this
20 Act; and

21 (iii) the mens rea requirement for the
22 criminal regulatory offense.

23 (2) AGENCIES DESCRIBED.—The Federal agen-
24 cies described in this paragraph are the Department
25 of Agriculture, the Department of Commerce, the

1 Department of Education, the Department of En-
2 ergy, the Department of Health and Human Serv-
3 ices, the Department of Homeland Security, the De-
4 partment of Housing and Urban Development, the
5 Department of the Interior, the Department of
6 Labor, the Department of Transportation, the De-
7 partment of the Treasury, the Commodity Futures
8 Trading Commission, the Consumer Product Safety
9 Commission, the Equal Employment Opportunity
10 Commission, the Export-Import Bank of the United
11 States, the Farm Credit Administration, the Federal
12 Communications Commission, the Federal Deposit
13 Insurance Corporation, the Federal Election Com-
14 mission, the Federal Labor Relations Authority, the
15 Federal Maritime Commission, the Federal Mine
16 Safety and Health Review Commission, the Federal
17 Trade Commission, the National Labor Relations
18 Board, the National Transportation Safety Board,
19 the Nuclear Regulatory Commission, the Occupa-
20 tional Safety and Health Review Commission, the
21 Office of Compliance, the Postal Regulatory Com-
22 mission, the Securities and Exchange Commission,
23 the Securities Investor Protection Corporation, the
24 Environmental Protection Agency, the Small Busi-

1 ness Administration, the Federal Housing Finance
2 Agency, and the Office of Government Ethics.

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

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

11 (2) the head of each agency described in sub-
12 section (c)(2) shall establish a publicly accessible
13 index of each criminal regulatory offense listed in
14 the report required under subsection (c)(1) and
15 make the index available and freely accessible on the
16 website of the agency.

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

20 **TITLE IV—PAROLE FOR** 21 **JUVENILES**

22 **SEC. 401. PAROLE FOR JUVENILES.**

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

1 **“§ 5032A. Modification of an imposed term of impris-**
 2 **onment for violations of law committed**
 3 **prior to age 18**

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

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

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

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

23 “(c) FACTORS AND INFORMATION TO BE CONSID-
 24 ERED IN DETERMINING WHETHER TO MODIFY A TERM
 25 OF IMPRISONMENT.—The court, in determining whether

1 to reduce a term of imprisonment pursuant to subsection
2 (a), shall consider—

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

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

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

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

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

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

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

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

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

11 “(10) the diminished culpability of juveniles as
 12 compared to that of adults, and the hallmark fea-
 13 tures of youth, including immaturity, impetuosity,
 14 and failure to appreciate risks and consequences,
 15 which counsel against sentencing juveniles to the
 16 otherwise applicable term of imprisonment; and

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

19 “(d) LIMITATION ON APPLICATIONS PURSUANT TO
 20 THIS SECTION.—

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

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

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

9 “(e) PROCEDURES.—

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

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

17 “(B) the sentencing court, the United
 18 States attorney, and the Federal Public De-
 19 fender or Executive Director of the Community
 20 Defender Organization for the judicial district
 21 in which the sentence described in subpara-
 22 graph (A) was imposed.

23 “(2) CRIME VICTIMS RIGHTS.—Upon receiving
 24 notice under paragraph (1), the United States attor-

1 ney shall provide any notifications required under
2 section 3771.

3 “(3) APPLICATION.—

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

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

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

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

20 “(B) HEARING.—

21 “(i) IN GENERAL.—The court shall
22 conduct a hearing on the motion, at which
23 the defendant and counsel for the defend-
24 ant shall be given the opportunity to be
25 heard.

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

4 “(iii) DEFENDANT’S PRESENCE.—At
5 a hearing under this section, the defendant
6 shall be present unless the defendant
7 waives the right to be present. The re-
8 quirement under this clause may be satis-
9 fied by the defendant appearing by video
10 teleconference.

11 “(iv) COUNSEL.—A defendant who is
12 unable to obtain counsel is entitled to have
13 counsel appointed to represent the defend-
14 ant for proceedings under this section, in-
15 cluding any appeal, unless the defendant
16 waives the right to counsel.

17 “(v) FINDINGS.—The court shall state
18 in open court, and file in writing, the rea-
19 sons for granting or denying a motion
20 under this section.

21 “(C) APPEAL.—The Government or the
22 defendant may file a notice of appeal in the dis-
23 trict court for review of a final order under this
24 section. The time limit for filing such appeal

1 shall be governed by rule 4(a) of the Federal
 2 Rules of Appellate Procedure.

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

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

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

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

17 **TITLE V—REVERSE MASS** 18 **INCARCERATION**

19 **SEC. 501. SHORT TITLE.**

20 This title may be cited as the “Reverse Mass Incar-
 21 ceration Act of 2019”.

1 **SEC. 502. GRANT PROGRAM.**

2 (a) IN GENERAL.—Title I of the Omnibus Crime
3 Control and Safe Street Act of 1968 (34 U.S.C. 10101
4 et seq.) is amended by adding at the end the following:

5 **“PART OO—STATE PRISON POPULATION**

6 **REDUCTION GRANT PROGRAM**

7 **“SEC. 3051. GRANT PROGRAM.**

8 “(a) IN GENERAL.—The Attorney General may make
9 grants to States to assist States in reducing crime rates
10 and incarcerations.

11 “(b) ELIGIBILITY.—A State shall be eligible to re-
12 ceive a grant under this section if the State demonstrates
13 that, during the 3-year period preceding the application
14 for a grant under this section—

15 “(1) the total number of individuals incarcer-
16 ated in correctional or detention facilities in the
17 State was reduced by not less than 7 percent; and

18 “(2) the rate of crime within the State did not
19 increase by more than 3 percent.

20 “(c) APPLICATION.—An eligible State seeking a
21 grant under this section shall submit to the Attorney Gen-
22 eral an application in such form and manner and at such
23 time as the Attorney General requires, which shall include
24 a clear methodology based on population size and other
25 factors.

1 “(d) USE OF GRANT FUNDS.—A grant awarded
 2 under this section shall be used by a State to implement
 3 evidence-based programs designed to reduce crime rates
 4 and incarcerations.”.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
 6 1001(a) of title I of the Omnibus Crime Control and Safe
 7 Streets Act of 1968 (34 U.S.C. 10261(a)) is amended by
 8 adding at the end the following:

9 “(29) There are authorized to be appropriated to
 10 carry out part OO \$2,000,000,000 for each of fiscal years
 11 2020 through 2029.”.

12 **DIVISION B—PRISON REFORM**
 13 **TITLE VI—DIGNITY ACT**

14 **SEC. 601. SHORT TITLE.**

15 This title may be cited as the “Dignity for Incarcer-
 16 ated Women Act of 2019” or the “Dignity Act”.

17 **SEC. 602. TREATMENT OF PRIMARY CARETAKER PARENTS**

18 **AND OTHER INDIVIDUALS IN FEDERAL PRIS-**

19 **ONS.**

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

23 **“§ 4051. Treatment of primary caretaker parents and**
 24 **other individuals**

25 “(a) DEFINITIONS.—In this section—

1 “(1) the term ‘correctional officer’ means a cor-
2 rectional officer of the Bureau of Prisons;

3 “(2) the term ‘Director’ means the Director of
4 the Bureau of Prisons;

5 “(3) the term ‘primary caretaker parent’ has
6 the meaning given the term in section 31903 of the
7 Violent Crime Control and Law Enforcement Act of
8 1994 (34 U.S.C. 12242); and

9 “(4) the term ‘prisoner’ means an individual
10 who is incarcerated in a Federal penal or correc-
11 tional institution.

12 “(b) VISITATION RULES.—The Director shall pro-
13 mulgate regulations for visitation between prisoners who
14 are primary caretaker parents and their family members
15 under which—

16 “(1) a prisoner may receive visits not fewer
17 than 6 days per week, which shall include Saturday
18 and Sunday;

19 “(2) a Federal penal or correctional institution
20 shall be open for visitation for not fewer than 8
21 hours per day;

22 “(3) a prisoner may have up to 5 adult visitors
23 and an unlimited number of child visitors per visit;
24 and

1 “(4) a prisoner may have physical contact with
 2 visitors unless the prisoner presents an immediate
 3 physical danger to the visitors.

4 “(c) PARENTING CLASSES.—The Director shall pro-
 5 vide parenting classes to each prisoner who is a primary
 6 caretaker parent.

7 “(d) TRAUMA-INFORMED CARE.—

8 “(1) IN GENERAL.—The Director shall provide
 9 trauma-informed care to each prisoner who is diag-
 10 nosed with trauma.

11 “(2) IDENTIFICATION AND REFERRAL.—The
 12 Director shall provide training to each correctional
 13 officer and each other employee of the Bureau of
 14 Prisons who regularly interacts with prisoners, in-
 15 cluding health care professionals and instructors, to
 16 enable the employees to identify prisoners with trau-
 17 ma and refer those prisoners to the proper health-
 18 care professional for treatment.

19 “(e) OMBUDSMAN.—The Attorney General shall des-
 20 ignate an ombudsman to oversee and monitor, with re-
 21 spect to Federal penal and correctional institutions—

22 “(1) prisoner transportation;

23 “(2) use of segregated housing;

24 “(3) strip searches of prisoners; and

25 “(4) civil rights violations.

1 “(f) TELECOMMUNICATIONS.—

2 “(1) IN GENERAL.—The Director—

3 “(A) may not charge a fee for a telephone
4 call made by a prisoner; and

5 “(B) shall make videoconferencing avail-
6 able to prisoners in each Federal penal or cor-
7 rectional institution free of charge.

8 “(2) RULE OF CONSTRUCTION.—Nothing in
9 paragraph (1)(B) shall be construed to authorize the
10 Director to use videoconferencing as a substitute for
11 in-person visits.

12 “(g) INMATE HEALTH.—

13 “(1) HEALTHCARE PRODUCTS.—

14 “(A) AVAILABILITY.—The Director shall
15 make the healthcare products described in sub-
16 paragraph (C) available to prisoners for free, in
17 a quantity that is appropriate to the healthcare
18 needs of each prisoner.

19 “(B) QUALITY OF PRODUCTS.—The Direc-
20 tor shall ensure that the healthcare products
21 provided under this paragraph conform with ap-
22 plicable industry standards.

23 “(C) PRODUCTS.—The healthcare products
24 described in this subparagraph are—

25 “(i) tampons;

1 “(ii) sanitary napkins;

2 “(iii) moisturizing soap, which may
3 not be lye-based;

4 “(iv) shampoo;

5 “(v) body lotion;

6 “(vi) Vaseline;

7 “(vii) toothpaste;

8 “(viii) toothbrushes;

9 “(ix) aspirin;

10 “(x) ibuprofen; and

11 “(xi) any other healthcare product
12 that the Director determines appropriate.

13 “(2) GYNECOLOGIST ACCESS.—The Director
14 shall ensure that female prisoners have access to a
15 gynecologist.

16 “(h) USE OF SEX-APPROPRIATE CORRECTIONAL OF-
17 FICERS.—

18 “(1) REGULATIONS.—The Director shall pro-
19 mulgate regulations under which—

20 “(A) a correctional officer may not conduct
21 a strip search of a prisoner of the opposite sex
22 unless—

23 “(i) the prisoner presents a risk of
24 immediate harm to herself or himself or
25 others; and

1 “(ii) no other correctional officer of
 2 the same sex as the prisoner is available to
 3 assist; and

4 “(B) a correctional officer may not enter a
 5 restroom reserved for prisoners of the opposite
 6 sex unless—

7 “(i)(I) a prisoner in the restroom pre-
 8 sents a risk of immediate harm to herself
 9 or himself or others; or

10 “(II) there is a medical emergency in
 11 the restroom; and

12 “(ii) no other correctional officer of
 13 the appropriate sex is available to assist.

14 “(2) RELATION TO OTHER LAWS.—Nothing in
 15 paragraph (1) shall be construed to affect the re-
 16 quirements under the Prison Rape Elimination Act
 17 of 2003 (34 U.S.C. 30301 et seq.).”.

18 (b) SUBSTANCE ABUSE TREATMENT.—Section
 19 3621(e) of title 18, United States Code, is amended by
 20 adding at the end the following:

21 “(7) ELIGIBILITY OF PRIMARY CARETAKER
 22 PARENTS AND PREGNANT WOMEN.—The Bureau of
 23 Prisons may not prohibit a prisoner who is a pri-
 24 mary caretaker parent (as defined in section 4051)
 25 or pregnant from participating in a program of resi-

1 dential substance abuse treatment provided under
 2 paragraph (1) based on the failure of the individual,
 3 before being committed to the custody of the Bu-
 4 reau, to disclose to any official that the individual
 5 had a substance abuse problem.”.

6 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) TABLE OF SECTIONS.—The table of sections
 8 for chapter 303 of title 18, United States Code, is
 9 amended by adding at the end the following:

“4051. Treatment of primary caretaker parents and other individuals.”.

10 (2) HEALTHCARE PRODUCTS.—Section 611 of
 11 the First Step Act of 2018 (Public Law 115–391;
 12 132 Stat. 5194) is repealed.

13 **SEC. 603. OVERNIGHT VISIT PILOT PROGRAM.**

14 (a) DEFINITIONS.—In this section—

15 (1) the term “Director” means the Director of
 16 the Bureau of Prisons;

17 (2) the term “primary caretaker parent” has
 18 the meaning given the term in section 31903 of the
 19 Violent Crime Control and Law Enforcement Act of
 20 1994 (34 U.S.C. 12242); and

21 (3) the term “prisoner” means an individual
 22 who is incarcerated in a Federal penal or correc-
 23 tional institution.

24 (b) PILOT PROGRAM.—The Director shall carry out
 25 a pilot program under which prisoners who are primary

1 caretaker parents and meet eligibility criteria established
 2 by the Director may receive overnight visits from family
 3 members.

4 (c) ELIGIBILITY CRITERIA.—In establishing eligi-
 5 bility criteria for the pilot program under subsection (b),
 6 the Director shall—

7 (1) require that a prisoner have displayed good
 8 behavior; and

9 (2) prohibit participation by any prisoner who
 10 has been convicted of a crime of violence (as defined
 11 in section 16 of title 18, United States Code).

12 **DIVISION C—RE-ENTRY REFORM:**
 13 **REDUCING THE COLLATERAL**
 14 **CONSEQUENCES OF CONVIC-**
 15 **TION**

16 **TITLE VII—FAIR CHANCE ACT**

17 **SEC. 701. SHORT TITLE.**

18 This title may be cited as the “Fair Chance to Com-
 19 pete for Jobs Act of 2019” or the “Fair Chance Act”.

20 **SEC. 702. PROHIBITION ON CRIMINAL HISTORY INQUIRIES**

21 **PRIOR TO CONDITIONAL OFFER FOR FED-**
 22 **ERAL EMPLOYMENT.**

23 (a) IN GENERAL.—Subpart H of part III of title 5,
 24 United States Code, is amended by adding at the end the
 25 following:

1 **“CHAPTER 92—PROHIBITION ON CRIMI-**
 2 **NAL HISTORY INQUIRIES PRIOR TO**
 3 **CONDITIONAL OFFER**

“Sec.

“9201. Definitions.

“9202. Limitations on requests for criminal history record information.

“9203. Agency policies; whistleblower complaint procedures.

“9204. Adverse action.

“9205. Procedures.

“9206. Rules of construction.

4 **“§ 9201. Definitions**

5 “In this chapter—

6 “(1) the term ‘agency’ means ‘Executive agen-
 7 cy’ as such term is defined in section 105 and in-
 8 cludes—

9 “(A) the United States Postal Service and
 10 the Postal Regulatory Commission; and

11 “(B) the Executive Office of the President;

12 “(2) the term ‘appointing authority’ means an
 13 employee in the executive branch of the Government
 14 of the United States that has authority to make ap-
 15 pointments to positions in the civil service;

16 “(3) the term ‘conditional offer’ means an offer
 17 of employment in a position in the civil service that
 18 is conditioned upon the results of a criminal history
 19 inquiry;

20 “(4) the term ‘criminal history record informa-
 21 tion’—

1 “(A) except as provided in subparagraphs
2 (B) and (C), has the meaning given the term in
3 section 9101(a);

4 “(B) includes any information described in
5 the first sentence of section 9101(a)(2) that has
6 been sealed or expunged pursuant to law; and

7 “(C) includes information collected by a
8 criminal justice agency, relating to an act or al-
9 leged act of juvenile delinquency, that is analo-
10 gous to criminal history record information (in-
11 cluding such information that has been sealed
12 or expunged pursuant to law); and

13 “(5) the term ‘suspension’ has the meaning
14 given the term in section 7501.

15 **“§ 9202. Limitations on requests for criminal history**
16 **record information**

17 “(a) INQUIRIES PRIOR TO CONDITIONAL OFFER.—
18 Except as provided in subsections (b) and (c), an employee
19 of an agency may not request, in oral or written form (in-
20 cluding through the Declaration for Federal Employment
21 (Office of Personnel Management Optional Form 306) or
22 any similar successor form, the USAJOBS internet
23 website, or any other electronic means) that an applicant
24 for an appointment to a position in the civil service dis-
25 close criminal history record information regarding the ap-

1 plicant before the appointing authority extends a condi-
 2 tional offer to the applicant.

3 “(b) OTHERWISE REQUIRED BY LAW.—The prohibi-
 4 tion under subsection (a) shall not apply with respect to
 5 an applicant for a position in the civil service if consider-
 6 ation of criminal history record information prior to a con-
 7 ditional offer with respect to the position is otherwise re-
 8 quired by law.

9 “(c) EXCEPTION FOR CERTAIN POSITIONS.—

10 “(1) IN GENERAL.—The prohibition under sub-
 11 section (a) shall not apply with respect to an appli-
 12 cant for an appointment to a position—

13 “(A) that requires a determination of eligi-
 14 bility described in clause (i), (ii), or (iii) of sec-
 15 tion 9101(b)(1)(A);

16 “(B) as a Federal law enforcement officer
 17 (as defined in section 115(c) of title 18); or

18 “(C) identified by the Director of the Of-
 19 fice of Personnel Management in the regula-
 20 tions issued under paragraph (2).

21 “(2) REGULATIONS.—

22 “(A) ISSUANCE.—The Director of the Of-
 23 fice of Personnel Management shall issue regu-
 24 lations identifying additional positions with re-
 25 spect to which the prohibition under subsection

1 (a) shall not apply, giving due consideration to
 2 positions that involve interaction with minors,
 3 access to sensitive information, or managing fi-
 4 nancial transactions.

5 “(B) COMPLIANCE WITH CIVIL RIGHTS
 6 LAWS.—The regulations issued under subpara-
 7 graph (A) shall—

8 “(i) be consistent with, and in no way
 9 supersede, restrict, or limit the application
 10 of title VII of the Civil Rights Act of 1964
 11 (42 U.S.C. 2000e et seq.) or other relevant
 12 Federal civil rights laws; and

13 “(ii) ensure that all hiring activities
 14 conducted pursuant to the regulations are
 15 conducted in a manner consistent with rel-
 16 evant Federal civil rights laws.

17 **“§ 9203. Agency policies; whistleblower complaint**
 18 **procedures**

19 “The Director of the Office of Personnel Manage-
 20 ment shall—

21 “(1) develop, implement, and publish a policy to
 22 assist employees of agencies in complying with sec-
 23 tion 9202 and the regulations issued pursuant to
 24 such section; and

1 “(2) establish and publish procedures under
2 which an applicant for an appointment to a position
3 in the civil service may submit a complaint, or any
4 other information, relating to compliance by an em-
5 ployee of an agency with section 9202.

6 **“§ 9204. Adverse action**

7 “(a) FIRST VIOLATION.—If the Director of the Office
8 of Personnel Management determines, after notice and an
9 opportunity for a hearing on the record, that an employee
10 of an agency has violated section 9202, the Director
11 shall—

12 “(1) issue to the employee a written warning
13 that includes a description of the violation and the
14 additional penalties that may apply for subsequent
15 violations; and

16 “(2) file such warning in the employee’s official
17 personnel record file.

18 “(b) SUBSEQUENT VIOLATIONS.—If the Director of
19 the Office of Personnel Management determines, after no-
20 tice and an opportunity for a hearing on the record, that
21 an employee that was subject to subsection (a) has com-
22 mitted a subsequent violation of section 9202, the Director
23 may take the following action:

24 “(1) For a second violation, suspension of the
25 employee for a period of not more than 7 days.

1 “(2) For a third violation, suspension of the
2 employee for a period of more than 7 days.

3 “(3) For a fourth violation—

4 “(A) suspension of the employee for a pe-
5 riod of more than 7 days; and

6 “(B) a civil penalty against the employee
7 in an amount that is not more than \$250.

8 “(4) For a fifth violation—

9 “(A) suspension of the employee for a pe-
10 riod of more than 7 days; and

11 “(B) a civil penalty against the employee
12 in an amount that is not more than \$500.

13 “(5) For any subsequent violation—

14 “(A) suspension of the employee for a pe-
15 riod of more than 7 days; and

16 “(B) a civil penalty against the employee
17 in an amount that is not more than \$1,000.

18 **“§ 9205. Procedures**

19 “(a) APPEALS.—The Director of the Office of Per-
20 sonnel Management shall by rule establish procedures pro-
21 viding for an appeal from any adverse action taken under
22 section 9204 by not later than 30 days after the date of
23 the action.

24 “(b) APPLICABILITY OF OTHER LAWS.—An adverse
25 action taken under section 9204 (including a determina-

1 tion in an appeal from such an action under subsection
 2 (a) of this section) shall not be subject to—

3 “(1) the procedures under chapter 75; or

4 “(2) except as provided in subsection (a) of this
 5 section, appeal or judicial review.

6 **“§ 9206. Rules of construction**

7 “Nothing in this chapter may be construed to—

8 “(1) authorize any officer or employee of an
 9 agency to request the disclosure of information de-
 10 scribed under subparagraphs (B) and (C) of section
 11 9201(4); or

12 “(2) create a private right of action for any
 13 person.”.

14 (b) REGULATIONS; EFFECTIVE DATE.—

15 (1) REGULATIONS.—Not later than 1 year after
 16 the date of enactment of this Act, the Director of
 17 the Office of Personnel Management shall issue such
 18 regulations as are necessary to carry out chapter 92
 19 of title 5, United States Code (as added by sub-
 20 section (a)).

21 (2) EFFECTIVE DATE.—Section 9202 of title 5,
 22 United States Code (as added by subsection (a)),
 23 shall take effect on the date that is 2 years after the
 24 date of enactment of this Act.

1 (c) TECHNICAL AND CONFORMING AMENDMENT.—
 2 The table of chapters for part III of title 5, United States
 3 Code, is amended by inserting after the item relating to
 4 chapter 91 the following:

**“92. Prohibition on criminal history inquiries prior to
 conditional offer 9201”.**

5 (d) APPLICATION TO LEGISLATIVE BRANCH.—

6 (1) IN GENERAL.—The Congressional Account-
 7 ability Act of 1995 (2 U.S.C. 1301 et seq.) is
 8 amended—

9 (A) in section 102(a) (2 U.S.C. 1302(a)),
 10 by adding at the end the following:

11 “(12) Section 9202 of title 5, United States
 12 Code.”;

13 (B) by redesignating section 207 (2 U.S.C.
 14 1317) as section 208; and

15 (C) by inserting after section 206 (2
 16 U.S.C. 1316) the following new section:

17 **“SEC. 207. RIGHTS AND PROTECTIONS RELATING TO CRIMI-
 18 NAL HISTORY INQUIRIES.**

19 “(a) DEFINITIONS.—In this section, the terms ‘agen-
 20 cy’, ‘criminal history record information’, and ‘suspension’
 21 have the meanings given the terms in section 9201 of title
 22 5, United States Code, except as otherwise modified by
 23 this section.

1 “(b) RESTRICTIONS ON CRIMINAL HISTORY INQUIR-
2 IES.—

3 “(1) IN GENERAL.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), an employee of an employing
6 office may not request that an applicant for em-
7 ployment as a covered employee disclose crimi-
8 nal history record information if the request
9 would be prohibited under section 9202 of title
10 5, United States Code, if made by an employee
11 of an agency.

12 “(B) CONDITIONAL OFFER.—For purposes
13 of applying that section 9202 under subpara-
14 graph (A), a reference in that section 9202 to
15 a conditional offer shall be considered to be an
16 offer of employment as a covered employee that
17 is conditioned upon the results of a criminal
18 history inquiry.

19 “(2) RULES OF CONSTRUCTION.—The provi-
20 sions of section 9206 of title 5, United States Code,
21 shall apply to employing offices, consistent with reg-
22 ulations issued under subsection (d).

23 “(c) REMEDY.—

24 “(1) IN GENERAL.—The remedy for a violation
25 of subsection (b)(1) shall be such remedy as would

1 be appropriate if awarded under section 9204 of title
 2 5, United States Code, if the violation had been
 3 committed by an employee of an agency, consistent
 4 with regulations issued under subsection (d), except
 5 that the reference in that section to a suspension
 6 shall be considered to be a suspension with the level
 7 of compensation provided for a covered employee
 8 who is taking unpaid leave under section 202.

9 “(2) PROCESS FOR OBTAINING RELIEF.—An
 10 applicant for employment as a covered employee who
 11 alleges a violation of subsection (b)(1) may rely on
 12 the provisions of title IV (other than section 407 or
 13 408, or a provision of this title that permits a per-
 14 son to obtain a civil action or judicial review), con-
 15 sistent with regulations issued under subsection (d).

16 “(d) REGULATIONS TO IMPLEMENT SECTION.—

17 “(1) IN GENERAL.—Not later than 18 months
 18 after the date of enactment of the Fair Chance to
 19 Compete for Jobs Act of 2019, the Board shall, pur-
 20 suant to section 304, issue regulations to implement
 21 this section.

22 “(2) PARALLEL WITH AGENCY REGULATIONS.—
 23 The regulations issued under paragraph (1) shall be
 24 the same as substantive regulations issued by the
 25 Director of the Office of Personnel Management

1 under section 702(b)(1) of the Fair Chance to Com-
 2 pete for Jobs Act of 2019 to implement the statu-
 3 tory provisions referred to in subsections (a) through
 4 (c) except to the extent that the Board may deter-
 5 mine, for good cause shown and stated together with
 6 the regulation, that a modification of such regula-
 7 tions would be more effective for the implementation
 8 of the rights and protections under this section.

9 “(e) EFFECTIVE DATE.—Section 102(a)(12) and
 10 subsections (a) through (c) shall take effect on the date
 11 on which section 9202 of title 5, United States Code, ap-
 12 plies with respect to agencies.”.

13 (2) CLERICAL AMENDMENTS.—

14 (A) The table of contents in section 1(b) of
 15 the Congressional Accountability Act of 1995
 16 (Public Law 104–1; 109 Stat. 3) is amended—

17 (i) by redesignating the item relating
 18 to section 207 as the item relating to sec-
 19 tion 208; and

20 (ii) by inserting after the item relating
 21 to section 206 the following new item:

“Sec. 207. Rights and protections relating to criminal history inquiries.”.

22 (B) Section 62(e)(2) of the Internal Rev-
 23 enue Code of 1986 is amended by striking “or
 24 207” and inserting “207, or 208”.

25 (e) APPLICATION TO JUDICIAL BRANCH.—

1 (1) IN GENERAL.—Section 604 of title 28,
 2 United States Code, is amended by adding at the
 3 end the following:

4 “(i) RESTRICTIONS ON CRIMINAL HISTORY INQUIR-
 5 IES.—

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

7 “(A) the terms ‘agency’ and ‘criminal his-
 8 tory record information’ have the meanings
 9 given those terms in section 9201 of title 5;

10 “(B) the term ‘covered employee’ means an
 11 employee of the judicial branch of the United
 12 States Government, other than—

13 “(i) any judge or justice who is enti-
 14 tled to hold office during good behavior;

15 “(ii) a United States magistrate
 16 judge; or

17 “(iii) a bankruptcy judge; and

18 “(C) the term ‘employing office’ means any
 19 office or entity of the judicial branch of the
 20 United States Government that employs covered
 21 employees.

22 “(2) RESTRICTION.—A covered employee may
 23 not request that an applicant for employment as a
 24 covered employee disclose criminal history record in-
 25 formation if the request would be prohibited under

1 section 9202 of title 5 if made by an employee of an
2 agency.

3 “(3) EMPLOYING OFFICE POLICIES; COMPLAINT
4 PROCEDURE.—The provisions of sections 9203 and
5 9206 of title 5 shall apply to employing offices and
6 to applicants for employment as covered employees,
7 consistent with regulations issued by the Director to
8 implement this subsection.

9 “(4) ADVERSE ACTION.—

10 “(A) ADVERSE ACTION.—The Director
11 may take such adverse action with respect to a
12 covered employee who violates paragraph (2) as
13 would be appropriate under section 9204 of
14 title 5 if the violation had been committed by
15 an employee of an agency.

16 “(B) APPEALS.—The Director shall by
17 rule establish procedures providing for an ap-
18 peal from any adverse action taken under sub-
19 paragraph (A) by not later than 30 days after
20 the date of the action.

21 “(C) APPLICABILITY OF OTHER LAWS.—
22 Except as provided in subparagraph (B), an ad-
23 verse action taken under subparagraph (A) (in-
24 cluding a determination in an appeal from such

1 an action under subparagraph (B)) shall not be
2 subject to appeal or judicial review.

3 “(5) REGULATIONS TO BE ISSUED.—

4 “(A) IN GENERAL.—Not later than 18
5 months after the date of enactment of the Fair
6 Chance to Compete for Jobs Act of 2019, the
7 Director shall issue regulations to implement
8 this subsection.

9 “(B) PARALLEL WITH AGENCY REGULA-
10 TIONS.—The regulations issued under subpara-
11 graph (A) shall be the same as substantive reg-
12 ulations promulgated by the Director of the Of-
13 fice of Personnel Management under section
14 702(b)(1) of the Fair Chance to Compete for
15 Jobs Act of 2019 except to the extent that the
16 Director of the Administrative Office of the
17 United States Courts may determine, for good
18 cause shown and stated together with the regu-
19 lation, that a modification of such regulations
20 would be more effective for the implementation
21 of the rights and protections under this sub-
22 section.

23 “(6) EFFECTIVE DATE.—Paragraphs (1)
24 through (4) shall take effect on the date on which

1 section 9202 of title 5 applies with respect to agen-
2 cies.”.

3 **SEC. 703. PROHIBITION ON CRIMINAL HISTORY INQUIRIES**
4 **BY CONTRACTORS PRIOR TO CONDITIONAL**
5 **OFFER.**

6 (a) CIVILIAN AGENCY CONTRACTS.—

7 (1) IN GENERAL.—Chapter 47 of title 41,
8 United States Code, is amended by adding at the
9 end the following new section:

10 **“§ 4714. Prohibition on criminal history inquiries by**
11 **contractors prior to conditional offer**

12 “(a) LIMITATION ON CRIMINAL HISTORY INQUIR-
13 IES.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graphs (2) and (3), an executive agency—

16 “(A) may not require that an individual or
17 sole proprietor who submits a bid for a contract
18 to disclose criminal history record information
19 regarding that individual or sole proprietor be-
20 fore determining the apparent awardee; and

21 “(B) shall require, as a condition of receiv-
22 ing a Federal contract and receiving payments
23 under such contract that the contractor may
24 not verbally, or through written form, request
25 the disclosure of criminal history record infor-

1 mation regarding an applicant for a position re-
2 lated to work under such contract before the
3 contractor extends a conditional offer to the ap-
4 plicant.

5 “(2) OTHERWISE REQUIRED BY LAW.—The
6 prohibition under paragraph (1) does not apply with
7 respect to a contract if consideration of criminal his-
8 tory record information prior to a conditional offer
9 with respect to the position is otherwise required by
10 law.

11 “(3) EXCEPTION FOR CERTAIN POSITIONS.—

12 “(A) IN GENERAL.—The prohibition under
13 paragraph (1) does not apply with respect to—

14 “(i) a contract that requires an indi-
15 vidual hired under the contract to access
16 classified information or to have sensitive
17 law enforcement or national security du-
18 ties; or

19 “(ii) a position that the Administrator
20 of General Services identifies under the
21 regulations issued under subparagraph
22 (B).

23 “(B) REGULATIONS.—

24 “(i) ISSUANCE.—Not later than 16
25 months after the date of enactment of the

1 Fair Chance to Compete for Jobs Act of
2 2019, the Administrator of General Serv-
3 ices, in consultation with the Secretary of
4 Defense, shall issue regulations identifying
5 additional positions with respect to which
6 the prohibition under paragraph (1) shall
7 not apply, giving due consideration to posi-
8 tions that involve interaction with minors,
9 access to sensitive information, or man-
10 aging financial transactions.

11 “(ii) COMPLIANCE WITH CIVIL RIGHTS
12 LAWS.—The regulations issued under
13 clause (i) shall—

14 “(I) be consistent with, and in no
15 way supersede, restrict, or limit the
16 application of title VII of the Civil
17 Rights Act of 1964 (42 U.S.C. 2000e
18 et seq.) or other relevant Federal civil
19 rights laws; and

20 “(II) ensure that all hiring activi-
21 ties conducted pursuant to the regula-
22 tions are conducted in a manner con-
23 sistent with relevant Federal civil
24 rights laws.

1 “(b) COMPLAINT PROCEDURES.—The Administrator
 2 of General Services shall establish and publish procedures
 3 under which an applicant for a position with a Federal
 4 contractor may submit to the Administrator a complaint,
 5 or any other information, relating to compliance by the
 6 contractor with subsection (a)(1)(B).

7 “(c) ACTION FOR VIOLATIONS OF PROHIBITION ON
 8 CRIMINAL HISTORY INQUIRIES.—

9 “(1) FIRST VIOLATION.—If the head of an execu-
 10 tive agency determines that a contractor has vio-
 11 lated subsection (a)(1)(B), such head shall—

12 “(A) notify the contractor;

13 “(B) provide 30 days after such notifica-
 14 tion for the contractor to appeal the determina-
 15 tion; and

16 “(C) issue a written warning to the con-
 17 tractor that includes a description of the viola-
 18 tion and the additional remedies that may apply
 19 for subsequent violations.

20 “(2) SUBSEQUENT VIOLATION.—If the head of
 21 an executive agency determines that a contractor
 22 that was subject to paragraph (1) has committed a
 23 subsequent violation of subsection (a)(1)(B), such
 24 head shall notify the contractor, shall provide 30
 25 days after such notification for the contractor to ap-

1 peal the determination, and, in consultation with the
 2 relevant Federal agencies, may take actions, depend-
 3 ing on the severity of the infraction and the contrac-
 4 tor’s history of violations, including—

5 “(A) providing written guidance to the
 6 contractor that the contractor’s eligibility for
 7 contracts requires compliance with this section;

8 “(B) requiring that the contractor respond
 9 within 30 days affirming that the contractor is
 10 taking steps to comply with this section; and

11 “(C) suspending payment under the con-
 12 tract for which the applicant was being consid-
 13 ered until the contractor demonstrates compli-
 14 ance with this section.

15 “(d) DEFINITIONS.—In this section:

16 “(1) CONDITIONAL OFFER.—The term ‘condi-
 17 tional offer’ means an offer of employment for a po-
 18 sition related to work under a contract that is condi-
 19 tioned upon the results of a criminal history inquiry.

20 “(2) CRIMINAL HISTORY RECORD INFORMA-
 21 TION.—The term ‘criminal history record informa-
 22 tion’ has the meaning given that term in section
 23 9201 of title 5.”.

24 “(2) CLERICAL AMENDMENT.—The table of sec-
 25 tions for chapter 47 of title 41, United States Code,

1 is amended by adding at the end the following new
 2 item:

“4714. Prohibition on criminal history inquiries by contractors prior to conditional offer.”.

3 (3) EFFECTIVE DATE.—Section 4714 of title
 4 41, United States Code, as added by paragraph (1),
 5 shall apply with respect to contracts awarded pursu-
 6 ant to solicitations issued after the effective date de-
 7 scribed in section 702(b)(2) of this title.

8 (b) DEFENSE CONTRACTS.—

9 (1) IN GENERAL.—Chapter 137 of title 10,
 10 United States Code, is amended by inserting after
 11 section 2338 the following new section:

12 **“§ 2339. Prohibition on criminal history inquiries by**
 13 **contractors prior to conditional offer**

14 “(a) LIMITATION ON CRIMINAL HISTORY INQUIR-
 15 IES.—

16 “(1) IN GENERAL.—Except as provided in para-
 17 graphs (2) and (3), the head of an agency—

18 “(A) may not require that an individual or
 19 sole proprietor who submits a bid for a contract
 20 to disclose criminal history record information
 21 regarding that individual or sole proprietor be-
 22 fore determining the apparent awardee; and

23 “(B) shall require as a condition of receiv-
 24 ing a Federal contract and receiving payments

1 under such contract that the contractor may
2 not verbally or through written form request
3 the disclosure of criminal history record infor-
4 mation regarding an applicant for a position re-
5 lated to work under such contract before such
6 contractor extends a conditional offer to the ap-
7 plicant.

8 “(2) OTHERWISE REQUIRED BY LAW.—The
9 prohibition under paragraph (1) does not apply with
10 respect to a contract if consideration of criminal his-
11 tory record information prior to a conditional offer
12 with respect to the position is otherwise required by
13 law.

14 “(3) EXCEPTION FOR CERTAIN POSITIONS.—

15 “(A) IN GENERAL.—The prohibition under
16 paragraph (1) does not apply with respect to—

17 “(i) a contract that requires an indi-
18 vidual hired under the contract to access
19 classified information or to have sensitive
20 law enforcement or national security du-
21 ties; or

22 “(ii) a position that the Secretary of
23 Defense identifies under the regulations
24 issued under subparagraph (B).

25 “(B) REGULATIONS.—

1 “(i) ISSUANCE.—Not later than 16
2 months after the date of enactment of the
3 Fair Chance to Compete for Jobs Act of
4 2019, the Secretary of Defense, in con-
5 sultation with the Administrator of Gen-
6 eral Services, shall issue regulations identi-
7 fying additional positions with respect to
8 which the prohibition under paragraph (1)
9 shall not apply, giving due consideration to
10 positions that involve interaction with mi-
11 nors, access to sensitive information, or
12 managing financial transactions.

13 “(ii) COMPLIANCE WITH CIVIL RIGHTS
14 LAWS.—The regulations issued under
15 clause (i) shall—

16 “(I) be consistent with, and in no
17 way supersede, restrict, or limit the
18 application of title VII of the Civil
19 Rights Act of 1964 (42 U.S.C. 2000e
20 et seq.) or other relevant Federal civil
21 rights laws; and

22 “(II) ensure that all hiring activi-
23 ties conducted pursuant to the regula-
24 tions are conducted in a manner con-

1 sistent with relevant Federal civil
2 rights laws.

3 “(b) COMPLAINT PROCEDURES.—The Secretary of
4 Defense shall establish and publish procedures under
5 which an applicant for a position with a Department of
6 Defense contractor may submit a complaint, or any other
7 information, relating to compliance by the contractor with
8 subsection (a)(1)(B).

9 “(c) ACTION FOR VIOLATIONS OF PROHIBITION ON
10 CRIMINAL HISTORY INQUIRIES.—

11 “(1) FIRST VIOLATION.—If the Secretary of
12 Defense determines that a contractor has violated
13 subsection (a)(1)(B), the Secretary shall—

14 “(A) notify the contractor;

15 “(B) provide 30 days after such notifica-
16 tion for the contractor to appeal the determina-
17 tion; and

18 “(C) issue a written warning to the con-
19 tractor that includes a description of the viola-
20 tion and the additional remedies that may apply
21 for subsequent violations.

22 “(2) SUBSEQUENT VIOLATIONS.—If the Sec-
23 retary of Defense determines that a contractor that
24 was subject to paragraph (1) has committed a sub-
25 sequent violation of subsection (a)(1)(B), the Sec-

1 retary shall notify the contractor, shall provide 30
2 days after such notification for the contractor to ap-
3 peal the determination, and, in consultation with the
4 relevant Federal agencies, may take actions, depend-
5 ing on the severity of the infraction and the contrac-
6 tor's history of violations, including—

7 “(A) providing written guidance to the
8 contractor that the contractor's eligibility for
9 contracts requires compliance with this section;

10 “(B) requiring that the contractor respond
11 within 30 days affirming that the contractor is
12 taking steps to comply with this section; and

13 “(C) suspending payment under the con-
14 tract for which the applicant was being consid-
15 ered until the contractor demonstrates compli-
16 ance with this section.

17 “(d) DEFINITIONS.—In this section:

18 “(1) CONDITIONAL OFFER.—The term ‘condi-
19 tional offer’ means an offer of employment for a po-
20 sition related to work under a contract that is condi-
21 tioned upon the results of a criminal history inquiry.

22 “(2) CRIMINAL HISTORY RECORD INFORMA-
23 TION.—The term ‘criminal history record informa-
24 tion’ has the meaning given that term in section
25 9201 of title 5.”.

1 (2) EFFECTIVE DATE.—Section 2339(a) of title
 2 10, United States Code, as added by paragraph (1),
 3 shall apply with respect to contracts awarded pursu-
 4 ant to solicitations issued after the effective date de-
 5 scribed in section 702(b)(2) of this title.

6 (3) CLERICAL AMENDMENT.—The table of sec-
 7 tions for chapter 137 of title 10, United States
 8 Code, is amended by inserting after the item relating
 9 to section 2338 the following new item:

“2339. Prohibition on criminal history inquiries by contractors prior to condi-
 tional offer.”.

10 (c) REVISIONS TO FEDERAL ACQUISITION REGULA-
 11 TION.—

12 (1) IN GENERAL.—Not later than 18 months
 13 after the date of enactment of this Act, the Federal
 14 Acquisition Regulatory Council shall revise the Fed-
 15 eral Acquisition Regulation to implement section
 16 4714 of title 41, United States Code, and section
 17 2339 of title 10, United States Code, as added by
 18 this section.

19 (2) CONSISTENCY WITH OFFICE OF PERSONNEL
 20 MANAGEMENT REGULATIONS.—The Federal Acquisi-
 21 tion Regulatory Council shall revise the Federal Ac-
 22 quisition Regulation under paragraph (1) to be con-
 23 sistent with the regulations issued by the Director of
 24 the Office of Personnel Management under section

1 702(b)(1) to the maximum extent practicable. The
2 Council shall include together with such revision an
3 explanation of any substantive modification of the
4 Office of Personnel Management regulations, includ-
5 ing an explanation of how such modification will
6 more effectively implement the rights and protec-
7 tions under this section.

8 **SEC. 704. REPORT ON EMPLOYMENT OF INDIVIDUALS FOR-**
9 **MERLY INCARCERATED IN FEDERAL PRIS-**
10 **ONS.**

11 (a) DEFINITION.—In this section, the term “covered
12 individual”—

13 (1) means an individual who has completed a
14 term of imprisonment in a Federal prison for a Fed-
15 eral criminal offense; and

16 (2) does not include an alien who is or will be
17 removed from the United States for a violation of
18 the immigration laws (as such term is defined in sec-
19 tion 101 of the Immigration and Nationality Act (8
20 U.S.C. 1101)).

21 (b) STUDY AND REPORT REQUIRED.—The Director
22 of the Bureau of Justice Statistics, in coordination with
23 the Director of the Bureau of the Census, shall—

24 (1) not later than 180 days after the date of
25 enactment of this Act, design and initiate a study on

the employment of covered individuals after their release from Federal prison, including by collecting—

(A) demographic data on covered individuals, including race, age, and sex; and

(B) data on employment and earnings of covered individuals who are denied employment, including the reasons for the denials; and

(2) not later than 2 years after the date of enactment of this Act, and every 5 years thereafter, submit a report that does not include any personally identifiable information on the study conducted under paragraph (1) to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Oversight and Reform of the House of Representatives; and

(D) the Committee on Education and Labor of the House of Representatives.

TITLE VIII—FAIR CHANCE LICENSING ACT

SEC. 801. SHORT TITLE.

This title may be cited as the “Fair Chance Licensing Act of 2019”.

1 **SEC. 802. RESTRICTIONS ON USE OF CRIMINAL RECORDS**
 2 **TO DISQUALIFY INDIVIDUALS FROM EMPLOY-**
 3 **MENT, OCCUPATIONAL LICENSING, OR OCCU-**
 4 **PATIONAL CERTIFICATION.**

5 (a) STATE AND LOCAL REQUIREMENTS.—Section
 6 534 of title 28, United States Code, is amended by adding
 7 at the end the following:

8 “(g) RESTRICTIONS ON STATE AND LOCAL USE OF
 9 CRIMINAL RECORDS TO DISQUALIFY INDIVIDUALS FROM
 10 EMPLOYMENT, OCCUPATIONAL LICENSING, OR OCCUPA-
 11 TIONAL CERTIFICATION.—

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

13 “(A) the term ‘covered entity’ means—

14 “(i) an occupational licensing author-
 15 ity;

16 “(ii) an occupational certification au-
 17 thority; and

18 “(iii) an employer or third-party enti-
 19 ty that is authorized by Federal or State
 20 law, including title II of the Departments
 21 of State, Justice, and Commerce, the Judi-
 22 ciary, and Related Agencies Appropriation
 23 Act, 1973 (Public Law 92–544; 86 Stat.
 24 1114), to access the records system cre-
 25 ated under this section for employment
 26 purposes;

“(B) the term ‘directly related conviction’, with respect to an individual, means a conviction of the individual that a covered entity determines to have a direct and specific negative bearing on the ability of the individual to perform the duties or responsibilities necessary for—

“(i) the position in which employment is sought; or

“(ii) the occupation for which an occupational license or certification is sought;

“(C) the term ‘qualifying background check law’ means a law that imposes the requirements described in paragraph (3); and

“(D) the term ‘record’ means a record or other information acquired, collected, classified, or preserved by the Attorney General under paragraph (1), (2), or (3) of subsection (a).

“(2) CONDITIONS ON ACCESS BY STATE AND LOCAL ENTITIES TO FBI BACKGROUND CHECK SYSTEM.—

“(A) STATES.—An agency or official of a State may not request or access a record, including on behalf of a private entity, under any authority, unless the State has enacted a quali-

1 fying background check law or a law that is
 2 more favorable to an individual with a criminal
 3 history than a qualifying background check law.

4 “(B) LOCAL GOVERNMENTS.—An agency
 5 or official of a political subdivision of a State
 6 may not request or access a record, including
 7 on behalf of a private entity, under any author-
 8 ity unless the political subdivision or the State
 9 has enacted a qualifying background check law
 10 or a law that is more favorable to an individual
 11 with a criminal history than a qualifying back-
 12 ground check law.

13 “(3) QUALIFYING BACKGROUND CHECK LAW.—

14 “(A) AVAILABILITY AND USE OF CRIMINAL
 15 HISTORY INFORMATION.—A qualifying back-
 16 ground check law shall provide that a covered
 17 entity may not consider any of the following
 18 criminal history information in determining
 19 whether to disqualify an individual from em-
 20 ployment, an occupational license, or an occupa-
 21 tional certification:

22 “(i) A conviction that is not a directly
 23 related conviction.

24 “(ii) Non-conviction information, in-
 25 cluding information related to—

1 “(I) a deferred adjudication;

2 “(II) participation in a diversion
3 program;

4 “(III) an arrest not followed by a
5 valid conviction; or

6 “(IV) an infraction.

7 “(iii) A conviction that has been
8 sealed, dismissed, expunged, or pardoned.

9 “(iv) A juvenile adjudication.

10 “(v) A misdemeanor conviction for
11 which no sentence of imprisonment can be
12 imposed.

13 “(vi) A misdemeanor conviction that
14 is more than 1 year old, excluding any pe-
15 riod of incarceration or custody.

16 “(vii) A felony conviction that is more
17 than 5 years old, excluding any period of
18 incarceration or custody.

19 “(B) CONSIDERATION OF TITLE VII
20 ‘GREEN’ FACTORS.—A qualifying background
21 check law shall provide that a covered entity, in
22 determining whether to disqualify an individual
23 from employment, an occupational license, or
24 an occupational certification based on a directly
25 related conviction, shall consider—

1 “(i) the nature and gravity of the con-
 2 viction;

3 “(ii) the period of time that has
 4 elapsed since the conviction or, if applica-
 5 ble, completion of the sentence; and

6 “(iii) the nature of the employment,
 7 license, or certification held or sought.

8 “(C) SUFFICIENT MITIGATION OR REHA-
 9 BILITATION AND FITNESS FOR OCCUPATION.—
 10 A qualifying background check law shall provide
 11 that a covered entity may not disqualify an in-
 12 dividual from employment, an occupational li-
 13 cense, or an occupational certification solely or
 14 in part because of a directly related conviction
 15 if the individual can establish sufficient mitiga-
 16 tion or rehabilitation and fitness to perform the
 17 duties of the position or occupation by pro-
 18 viding—

19 “(i) evidence showing that—

20 “(I) not less than 1 year has
 21 elapsed since the individual was re-
 22 leased from any correctional institu-
 23 tion without subsequent conviction of
 24 a crime; and

1 “(II) the individual has complied
2 with all terms and conditions of pro-
3 bation or parole; or

4 “(ii) any other evidence of mitigation
5 and present fitness, including—

6 “(I) the circumstances relating to
7 the offense, including mitigating cir-
8 cumstances or social conditions sur-
9 rounding the commission of the of-
10 fense;

11 “(II) the age of the individual
12 when the individual committed the of-
13 fense;

14 “(III) the period of time that has
15 elapsed since the individual committed
16 the offense;

17 “(IV) evidence of work history,
18 particularly any training or work ex-
19 perience related to the position or oc-
20 cupation;

21 “(V) additional evidence of edu-
22 cational, training, or work activities
23 that the individual has participated in,
24 including during any period of incar-
25 ceration;

1 “(VI) letters of reference by per-
2 sons who have been in contact with
3 the individual since the individual was
4 released from any correctional institu-
5 tion; and

6 “(VII) completion of, or active
7 participation in, rehabilitative drug or
8 alcohol treatment.

9 “(D) NOTICE OF POTENTIAL DENIAL AND
10 OPPORTUNITY TO APPEAL.—

11 “(i) NOTICE OF POTENTIAL DE-
12 NIAL.—A qualifying background check law
13 shall provide that if a covered entity in-
14 tends to disqualify an individual from em-
15 ployment, an occupational license, or an
16 occupational certification solely or in part
17 because of a directly related conviction, the
18 covered entity shall, prior to making a
19 final decision—

20 “(I) notify the individual in writ-
21 ing of—

22 “(aa) the directly related
23 conviction that forms the basis
24 for the potential disqualification;
25 and

1 “(bb) the rationale for how
2 the conviction is directly related
3 to the position or occupation;

4 “(II) provide the individual a
5 copy of the conviction history report,
6 if any, on which the covered entity re-
7 lies; and

8 “(III) provide the individual ex-
9 amples of mitigation or rehabilitation
10 evidence (as described in subpara-
11 graph (C)) that the individual may
12 voluntarily provide.

13 “(ii) RESPONSE.—A qualifying back-
14 ground check law shall provide that not
15 later than 30 days after the date on which
16 an individual receives a notice of potential
17 disqualification described in clause (i), the
18 individual may respond to the notice by—

19 “(I) challenging the accuracy of
20 the conviction history report; or

21 “(II) submitting evidence of miti-
22 gation or rehabilitation.

23 “(iii) FINAL DECISION.—A qualifying
24 background check law shall provide that a
25 covered entity shall make a final decision

1 based on an individualized assessment of
2 the information described in subparagraph
3 (C), including any information described in
4 clause (ii) of this subparagraph submitted
5 by the individual.

6 “(iv) NOTICE OF FINAL DECISION.—A
7 qualifying background check law shall pro-
8 vide that if a covered entity disqualifies an
9 individual from employment, an occupa-
10 tional license, or an occupational certifi-
11 cation solely or in part because of a di-
12 rectly related conviction, the covered entity
13 shall notify the individual in writing of—

14 “(I) the final decision, includ-
15 ing—

16 “(aa) a list of each directly
17 related conviction that forms the
18 basis for the decision; and

19 “(bb) the rationale for how
20 the conviction is directly related
21 to the position;

22 “(II) additional appeal proce-
23 dures, if any, including opportunities
24 for administrative or judicial review;
25 and

1 “(III) the earliest date on which
2 the individual may reapply for the em-
3 ployment, occupational license, or oc-
4 cupational certification.

5 “(E) EDUCATION, OUTREACH, AND TRANS-
6 PARENCY ACTIVITIES.—A qualifying back-
7 ground check law shall provide that a covered
8 entity shall—

9 “(i) adopt education and outreach
10 policies developed with the input of key
11 stakeholders, including individuals with ar-
12 rest and conviction records;

13 “(ii) explain to the public (including
14 on the website of the covered entity, if ap-
15 plicable) how the covered entity uses crimi-
16 nal history information in making decisions
17 with respect to employment, occupational
18 licensing, or occupational certification, as
19 applicable; and

20 “(iii) offer individuals access at any
21 time (including before obtaining any re-
22 quired education or training) to guidance
23 on the impact of a conviction or arrest on
24 the application process for employment, oc-

1 cupational licensing, or occupational cer-
2 tification, as applicable.

3 “(4) COMPLIANCE REVIEW.—Not later than
4 180 days after the date on which this subsection
5 takes effect, and semiannually thereafter, the Attor-
6 ney General shall review the compliance of States
7 and political subdivisions thereof with the require-
8 ment under paragraph (2).”.

9 (b) FEDERAL REQUIREMENTS.—

10 (1) CONSIDERATION OF CRIMINAL HISTORY IN-
11 FORMATION CONSISTENT WITH QUALIFYING BACK-
12 GROUND CHECK LAW.—

13 (A) IN GENERAL.—Notwithstanding any
14 other provision of law, other than a provision
15 described in subparagraph (B), consideration of
16 the criminal history information of an indi-
17 vidual for purposes of employment, occupational
18 licensing, or occupational certification of the in-
19 dividual, or any similar purpose, that is re-
20 quired or authorized under any provision of
21 Federal law shall be carried out in accordance
22 with the requirements described in section
23 534(g)(3) of title 28, United States Code, as
24 added by subsection (a).

1 (B) EXCEPTIONS.—Subparagraph (A)
 2 shall not apply to the consideration of the
 3 criminal history information of an individual
 4 under any provision of law governing—

- 5 (i) Federal employment;
- 6 (ii) the Armed Forces;
- 7 (iii) law enforcement; or
- 8 (iv) national security.

9 (2) RELATION TO OTHER LAW.—Nothing in
 10 paragraph (1) shall be construed to supersede any
 11 other provision of Federal law that imposes require-
 12 ments relating to the availability and use of criminal
 13 history information that is more favorable to an in-
 14 dividual with a criminal history than the require-
 15 ments described in section 534(g)(3) of title 28,
 16 United States Code, as added by subsection (a).

17 (3) REGULATIONS.—Not later than 180 days
 18 after the date of enactment of this Act, the head of
 19 an agency that administers a provision of law af-
 20 fected by paragraph (1) shall promulgate any regu-
 21 lations necessary to comply with that paragraph.

22 (c) EFFECTIVE DATE.—Subsections (a) and (b)(1),
 23 the amendments made by those subsections, and the regu-
 24 lations promulgated under subsection (b)(3) shall take ef-

fect on the date that is 1 year after the date of enactment
of this Act.

SEC. 803. TRANSPARENCY AND ACCOUNTABILITY STUDY.

(a) BUREAU OF JUSTICE STATISTICS ANNUAL
STUDY.—Not later than 1 year after the date of enact-
ment of this Act, and each year thereafter, the Bureau
of Justice Statistics shall conduct a study, and submit a
report to Congress on that study, that—

(1) collects data on the Federal and State laws
that result in the disqualification of applicants for
employment, an occupational license, or an occupa-
tional certification based on the criminal record of
the applicant;

(2) focuses on the disqualifying offenses and
the racial, gender, and ethnic profile of the appli-
cants disqualified under the laws described in para-
graph (1); and

(3) examines the reversal rates and impact on
employment opportunities that result from the pro-
cedures to appeal a potential disqualification from
employment, an occupational license, or an occupa-
tional certification required under section 802 and
the amendments made by that section.

(b) DATA SUBMISSION BY FEDERAL AGENCIES AND
STATES.—A State that wishes to access to a record as

1 described in subsection (g)(2) of section 534 of title 28,
 2 United States Code, (as added by this title) and each Fed-
 3 eral agency that administers a provision of law affected
 4 by section 802(b) shall regularly collect and submit to the
 5 Bureau of Justice Statistics, for purposes of the annual
 6 study under subsection (a) of this section, any applicable
 7 data described in subsection (a) of this section.

8 **TITLE IX—REDEEM ACT**

9 **SEC. 901. SHORT TITLE.**

10 This title may be cited as the “Record Expungement
 11 Designed to Enhance Employment Act of 2019” or the
 12 “REDEEM Act”.

13 **SEC. 902. SEALING OF CRIMINAL RECORDS.**

14 (a) FINDING.—Congress finds that the definition of
 15 the term “crime of violence” recommended by the United
 16 States Sentencing Commission in the report entitled “Re-
 17 port to the Congress: Career Offender Sentencing En-
 18 hancements”, published in August 2016, is clearer and
 19 more specific than the definitions currently used in title
 20 18, United States Code, and should be used to determine
 21 the type of offenses eligible for sealing under the amend-
 22 ments made by this section.

23 (b) AMENDMENT.—Chapter 229 of title 18, United
 24 States Code, is amended by adding at the end the fol-
 25 lowing:

1 **“Subchapter E—Sealing of Criminal Records**

“Sec.

“3641. Definitions; eligible individuals.

“3642. Automatic sealing of records of nonviolent drug offenses.

“3643. Sealing petition.

“3644. Effect of sealing order.

2 **“§ 3641. Definitions; eligible individuals**

3 “(a) DEFINITIONS.—In this subchapter—

4 “(1) the term ‘covered nonviolent offense’
5 means a Federal criminal offense that is not—

6 “(A) a crime of violence; or

7 “(B) a sex offense, as defined in section
8 111 of the Sex Offender Registration and Noti-
9 fication Act (34 U.S.C. 20911);

10 “(2) the term ‘crime of violence’ means any of-
11 fense under Federal or State law, punishable by im-
12 prisonment for a term exceeding 1 year, that—

13 “(A) has as an element the use, attempted
14 use, or threatened use of physical force against
15 the person of another; or

16 “(B) is—

17 “(i) murder;

18 “(ii) voluntary manslaughter;

19 “(iii) kidnapping;

20 “(iv) aggravated assault;

21 “(v) a forcible sex offense;

22 “(vi) robbery;

23 “(vii) arson;

1 “(viii) extortion; or

2 “(ix) the use or unlawful possession

3 of—

4 “(I) a firearm, as defined in sec-

5 tion 5845(a) of the Internal Revenue

6 Code of 1986; or

7 “(II) explosive materials, as de-

8 fined in section 841(c);

9 “(3) the term ‘eligible individual’ means an in-
10 dividual who—

11 “(A) has been arrested for or convicted of
12 a covered nonviolent offense;

13 “(B) in the case of a conviction described
14 in subparagraph (A), has fulfilled each require-
15 ment of the sentence for the covered nonviolent
16 offense, including—

17 “(i) completing each term of imprison-
18 ment, probation, or supervised release; and

19 “(ii) satisfying each condition of im-
20 prisonment, probation, or supervised re-
21 lease;

22 “(C) subject to subsection (b), has not
23 been convicted of more than 2 felonies that are
24 covered nonviolent offenses, including any such
25 convictions that have been sealed; and

1 “(D) has not been convicted of any felony
2 that is not a covered nonviolent offense;

3 “(4) the term ‘petitioner’ means an individual
4 who files a sealing petition;

5 “(5) the term ‘protected information’, with re-
6 spect to a covered nonviolent offense, means any ref-
7 erence to—

8 “(A) an arrest, conviction, or sentence of
9 an individual for the offense;

10 “(B) the institution of criminal pro-
11 ceedings against an individual for the offense;
12 or

13 “(C) the result of criminal proceedings de-
14 scribed in subparagraph (B);

15 “(6) the term ‘seal’—

16 “(A) means—

17 “(i) to close a record from public
18 viewing so that the record cannot be exam-
19 ined except by court order; and

20 “(ii) to physically seal the record shut
21 and label the record ‘SEALED’ or, in the
22 case of an electronic record, the sub-
23 stantive equivalent; and

24 “(B) has the effect described in section
25 3644, including—

1 “(i) the right to treat the offense to
 2 which a sealed record relates, and any ar-
 3 rest, criminal proceeding, conviction, or
 4 sentence relating to the offense, as if it
 5 never occurred; and

6 “(ii) protection from civil and criminal
 7 perjury, false swearing, and false state-
 8 ment laws with respect to a sealed record;

9 “(7) the term ‘sealing hearing’ means a hearing
 10 held under section 3643(b)(2); and

11 “(8) the term ‘sealing petition’ means a petition
 12 for a sealing order filed under section 3643(a).

13 “(b) ELIGIBLE INDIVIDUALS.—

14 “(1) MULTIPLE CONVICTIONS DEEMED TO BE
 15 ONE CONVICTION.—For purposes of subsection
 16 (a)(2)(C)—

17 “(A) multiple convictions shall be deemed
 18 to be 1 conviction if the convictions result from
 19 or relate to—

20 “(i) the same act; or

21 “(ii) acts committed at the same time;

22 and

23 “(B) subject to paragraph (2), multiple
 24 convictions, not to exceed 3, that do not result
 25 from or relate to the same act or acts com-

1 mitted at the same time shall be deemed to be
2 1 conviction if the convictions—

3 “(i) result from or relate to—

4 “(I) the same—

5 “(aa) indictment, informa-
6 tion, or complaint;

7 “(bb) plea of guilty; or

8 “(cc) official proceeding; or

9 “(II) related criminal acts that
10 were committed within a 3-month pe-
11 riod; or

12 “(ii) are determined to be directly re-
13 lated to addiction or a substance use dis-
14 order.

15 “(2) DISCRETION OF COURT.—

16 “(A) IN GENERAL.—A court reviewing a
17 sealing petition may determine that it is not in
18 the public interest to deem multiple convictions
19 described in paragraph (1)(B) to be 1 convic-
20 tion.

21 “(B) REASONING.—If a court makes a de-
22 termination under subparagraph (A), the court
23 shall make available to the public the reasoning
24 for the determination.

“(C) REPORTING.—Not later than 2 years after the date of enactment of this subchapter, and each year thereafter, each district court of the United States shall submit to the appropriate committees of Congress a report that describes the exercise of discretion by the court under subparagraph (B), with all relevant data disaggregated by race, ethnicity, gender, and the nature of the offense.

“§ 3642. Automatic sealing of records of nonviolent drug offenses

“(a) DEFINITION.—In this section, the term ‘convicted of a nonviolent drug offense’, with respect to an individual—

“(1) means the individual is convicted of a covered nonviolent offense that is an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46; and

“(2) does not include a conviction with respect to which the court applied a sentencing enhancement under section 2D1.1(b)(2) of the Federal sentencing guidelines (relating to the use of violence or the threat or direction to use violence).

1 “(b) AUTOMATIC SEALING.—Five years after the
2 date on which an eligible individual who is convicted of
3 a nonviolent drug offense completes every term of impris-
4 onment, probation, or supervised release ordered by the
5 court with respect to the offense, the court shall order the
6 sealing of each record or portion thereof that relates to
7 the offense if the individual—

8 “(1) has not been convicted of a crime or adju-
9 dicated delinquent for an act of juvenile delinquency
10 since the date of the conviction; and

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

13 “(c) AUTOMATIC NATURE OF SEALING.—The order
14 of sealing under subsection (b) shall require no action by
15 the individual whose records are to be sealed.

16 “(d) NOTICE OF AUTOMATIC SEALING.—A court that
17 orders the sealing of a record of an individual under sub-
18 section (b) shall, in writing, inform the individual of the
19 sealing and the benefits of sealing the record, including
20 protection from civil and criminal perjury, false swearing,
21 and false statement laws with respect to the record.

22 “(e) RELATION TO OTHER LAWS.—Automatic seal-
23 ing under subsection (b) shall not apply to a conviction
24 for a marijuana use or possession offense that is expunged

1 under section 203(c) of the Marijuana Justice Act of
2 2019.

3 **“§ 3643. Sealing petition**

4 “(a) RIGHT TO FILE SEALING PETITION.—

5 “(1) IN GENERAL.—On and after the date de-
6 scribed in paragraph (2), an eligible individual may
7 file a petition for a sealing order with respect to a
8 covered nonviolent offense in a district court of the
9 United States.

10 “(2) DATES.—The date described in this para-
11 graph is—

12 “(A) for an eligible individual who is con-
13 victed of a covered nonviolent offense and sen-
14 tenced to a term of imprisonment, probation, or
15 supervised release, the date that is 1 year after
16 the date on which the eligible individual has
17 completed every such term of imprisonment,
18 probation, or supervised release; and

19 “(B) for an eligible individual not de-
20 scribed in subparagraph (A), the date on which
21 the case relating to the covered nonviolent of-
22 fense is disposed of.

23 “(3) NOTICE OF OPPORTUNITY TO FILE PETI-
24 TION.—

25 “(A) CONVICTED INDIVIDUALS.—

1 “(i) IN GENERAL.—If an individual is
2 convicted of a covered nonviolent offense
3 and will potentially be eligible to file a
4 sealing petition with respect to the offense
5 upon fulfilling each requirement of the sen-
6 tence for the offense as described in sec-
7 tion 3641(a)(2)(B), the court in which the
8 individual is convicted shall, in writing, in-
9 form the individual, on each date described
10 in clause (ii), of—

11 “(I) that potential eligibility;

12 “(II) the necessary procedures
13 for filing the sealing petition; and

14 “(III) the benefits of sealing a
15 record, including protection from civil
16 and criminal perjury, false swearing,
17 and false statement laws with respect
18 to the record.

19 “(ii) DATES.—The dates described in
20 this clause are—

21 “(I) the date on which the indi-
22 vidual is convicted; and

23 “(II) the date on which the indi-
24 vidual has completed every term of

1 imprisonment, probation, or super-
2 vised release relating to the offense.

3 “(B) INDIVIDUALS NOT CONVICTED.—

4 “(i) ARREST ONLY.—If an individual
5 is arrested for a covered nonviolent of-
6 fense, criminal proceedings are not insti-
7 tuted against the individual for the offense,
8 and the individual is potentially eligible to
9 file a sealing petition with respect to the
10 offense, on the date on which the case re-
11 lating to the offense is disposed of, the ar-
12 resting authority shall, in writing, inform
13 the individual of—

14 “(I) that potential eligibility;

15 “(II) the necessary procedures
16 for filing the sealing petition; and

17 “(III) the benefits of sealing a
18 record, including protection from civil
19 and criminal perjury, false swearing,
20 and false statement laws with respect
21 to the record.

22 “(ii) COURT PROCEEDINGS.—If an in-
23 dividual is arrested for a covered non-
24 violent offense, criminal proceedings are in-
25 stituted against the individual for the of-

1 fense, the individual is not convicted of the
 2 offense, and the individual is potentially el-
 3 igible to file a sealing petition with respect
 4 to the offense, on the date on which the
 5 case relating to the offense is disposed of,
 6 the court in which the criminal proceedings
 7 take place shall, in writing, inform the in-
 8 dividual of—

9 “(I) that potential eligibility;

10 “(II) the necessary procedures
 11 for filing the sealing petition; and

12 “(III) the benefits of sealing a
 13 record, including protection from civil
 14 and criminal perjury, false swearing,
 15 and false statement laws with respect
 16 to the record.

17 “(b) PROCEDURES.—

18 “(1) NOTIFICATION TO PROSECUTOR.—If an in-
 19 dividual files a petition under subsection (a) with re-
 20 spect to a covered nonviolent offense or arrest for a
 21 covered nonviolent offense, the district court in
 22 which the petition is filed shall provide notice of the
 23 petition—

1 “(A) to the office of the United States at-
2 torney that prosecuted or would have pros-
3 ecuted the petitioner for the offense; and

4 “(B) upon the request of the petitioner, to
5 any other individual that the petitioner deter-
6 mines may testify as to the—

7 “(i) conduct of the petitioner since the
8 date of the offense or arrest; or

9 “(ii) reasons that the sealing order
10 should be entered.

11 “(2) HEARING.—

12 “(A) IN GENERAL.—Not later than 180
13 days after the date on which an individual files
14 a sealing petition, the district court shall—

15 “(i) except as provided in subpara-
16 graph (D), conduct a hearing in accord-
17 ance with subparagraph (B); and

18 “(ii) determine whether to enter a
19 sealing order for the individual in accord-
20 ance with paragraph (3).

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

23 “(i) PETITIONER.—The petitioner
24 may testify or offer evidence at the sealing
25 hearing in support of sealing.

1 “(ii) PROSECUTOR.—The office of a
2 United States attorney that receives notice
3 under paragraph (1)(A) may send a rep-
4 resentative to testify or offer evidence at
5 the sealing hearing in support of or
6 against sealing.

7 “(iii) OTHER INDIVIDUALS.—An indi-
8 vidual who receives notice under paragraph
9 (1)(B) may testify or offer evidence at the
10 sealing hearing as to the issues described
11 in clauses (i) and (ii) of that paragraph.

12 “(C) MAGISTRATE JUDGES.—A magistrate
13 judge may preside over a hearing under this
14 paragraph.

15 “(D) WAIVER OF HEARING.—If the peti-
16 tioner and the United States attorney that re-
17 ceives notice under paragraph (1)(A) so agree,
18 the court shall make a determination under
19 paragraph (3) without a hearing.

20 “(3) BASIS FOR DECISION.—

21 “(A) IN GENERAL.—In determining wheth-
22 er to enter a sealing order with respect to pro-
23 tected information relating to a covered non-
24 violent offense, the court—

25 “(i) shall consider—

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

4 “(II) all the evidence and testi-
5 mony presented at the sealing hear-
6 ing, if such a hearing is conducted;

7 “(ii) may not consider any non-Fed-
8 eral nonviolent crimes for which the peti-
9 tioner has been arrested or proceeded
10 against, or of which the petitioner has been
11 convicted; and

12 “(iii) shall balance—

13 “(I)(aa) the interest of public
14 knowledge and safety; and

15 “(bb) the legitimate interest, if
16 any, of the Government in maintain-
17 ing the accessibility of the protected
18 information, including any potential
19 impact of sealing the protected infor-
20 mation on Federal licensure, permit,
21 or employment restrictions; against

22 “(II)(aa) the conduct and dem-
23 onstrated desire of the petitioner to be
24 rehabilitated and positively contribute
25 to the community; and

1 “(bb) the interest of the peti-
2 tioner in having the protected infor-
3 mation sealed, including the harm of
4 the protected information to the abil-
5 ity of the petitioner to secure and
6 maintain employment.

7 “(B) BURDEN ON GOVERNMENT.—The
8 burden shall be on the Government to show
9 that the interests under subclause (I) of sub-
10 paragraph (A)(iii) outweigh the interests of the
11 petitioner under subclause (II) of that subpara-
12 graph.

13 “(4) WAITING PERIOD AFTER DENIAL.—If the
14 district court denies a sealing petition, the petitioner
15 may not file a new sealing petition with respect to
16 the same offense until the date that is 2 years after
17 the date of the denial.

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

23 “(6) FEE WAIVER.—The Director of the Ad-
24 ministrative Office of the United States Courts shall
25 by regulation establish a minimally burdensome

1 process under which indigent petitioners may obtain
2 a waiver of any fee for filing a sealing petition.

3 “(7) REPORTING.—Not later than 2 years after
4 the date of enactment of this subchapter, and each
5 year thereafter, each district court of the United
6 States shall issue a public report that—

7 “(A) describes—

8 “(i) the number of sealing petitions
9 granted and denied under this section; and

10 “(ii) the number of instances in which
11 the office of a United States attorney sup-
12 ported or opposed a sealing petition;

13 “(B) includes any supporting data that the
14 court determines relevant and that does not
15 name any petitioner; and

16 “(C) disaggregates all relevant data by
17 race, ethnicity, gender, and the nature of the
18 offense.

19 “(8) PUBLIC DEFENDER ELIGIBILITY.—

20 “(A) IN GENERAL.—The district court
21 may, in its discretion, appoint counsel in ac-
22 cordance with the plan of the district court in
23 operation under section 3006A to represent a
24 petitioner for purposes of this section.

1 “(B) CONSIDERATIONS.—In making a de-
 2 termination whether to appoint counsel under
 3 subparagraph (A), the court shall consider—

4 “(i) the anticipated complexity of the
 5 sealing hearing, including the number and
 6 type of witnesses called to advocate against
 7 the sealing of the protected information of
 8 the petitioner; and

9 “(ii) the potential for adverse testi-
 10 mony by a victim or a representative of the
 11 office of the United States attorney.

12 **“§ 3644. Effect of sealing order**

13 “(a) IN GENERAL.—Except as provided in this sec-
 14 tion, if a district court of the United States enters a seal-
 15 ing order with respect to a covered nonviolent offense, the
 16 offense and any arrest, criminal proceeding, conviction, or
 17 sentence relating to the offense shall be treated as if it
 18 never occurred.

19 “(b) VERIFICATION OF SEALING.—If a district court
 20 of the United States enters a sealing order with respect
 21 to a covered nonviolent offense, the court shall—

22 “(1) send a copy of the sealing order to each
 23 entity or person known to the court that possesses
 24 a record containing protected information that re-
 25 lates to the offense, including each—

1 “(A) law enforcement agency; and

2 “(B) public or private correctional or de-
3 tention facility;

4 “(2) in the sealing order, require each entity or
5 person described in paragraph (1) to—

6 “(A) seal the record in accordance with
7 this section; and

8 “(B) submit a written certification to the
9 court, under penalty of perjury, that the entity
10 or person has sealed each paper and electronic
11 copy of the record;

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

14 “(4) after receiving a written certification from
15 each entity or person under paragraph (2)(B), notify
16 the petitioner that each entity or person described in
17 paragraph (1) has sealed each paper and electronic
18 copy of the record.

19 “(c) PROTECTION FROM PERJURY LAWS.—Except as
20 provided in subsection (f)(3)(A), a petitioner with respect
21 to whom a sealing order has been entered for a covered
22 nonviolent offense shall not be subject to prosecution
23 under any civil or criminal provision of Federal or State
24 law relating to perjury, false swearing, or making a false
25 statement, including section 1001, 1621, 1622, or 1623,

1 for failing to recite or acknowledge any protected informa-
 2 tion with respect to the offense or respond to any inquiry
 3 made of the petitioner, relating to the protected informa-
 4 tion, for any purpose.

5 “(d) ATTORNEY GENERAL NONPUBLIC RECORDS.—
 6 The Attorney General—

7 “(1) shall maintain a nonpublic record of all
 8 protected information that has been sealed under
 9 this subchapter; and

10 “(2) may access or use protected information
 11 only—

12 “(A) for legitimate investigative purposes;

13 “(B) in defense of any civil suit arising out
 14 of the facts of the arrest or subsequent pro-
 15 ceedings; or

16 “(C) if the Attorney General determines
 17 that disclosure is necessary to serve the inter-
 18 ests of justice, public safety, or national secu-
 19 rity.

20 “(e) LAW ENFORCEMENT ACCESS.—A Federal or
 21 State law enforcement agency may access a record that
 22 is sealed under this subchapter solely—

23 “(1) to determine whether the individual to
 24 whom the record relates is eligible for a first-time-
 25 offender diversion program;

1 “(2) for investigatory, prosecutorial, or Federal
2 supervision purposes; or

3 “(3) for a background check that relates to law
4 enforcement employment or any employment that re-
5 quires a government security clearance.

6 “(f) PROHIBITION ON DISCLOSURE.—

7 “(1) PROHIBITION.—Except as provided in
8 paragraph (3), it shall be unlawful to intentionally
9 make or attempt to make an unauthorized disclosure
10 of any protected information from a record that has
11 been sealed under this subchapter.

12 “(2) PENALTY.—Any person who violates para-
13 graph (1) shall be fined under this title, imprisoned
14 for not more than 1 year, or both.

15 “(3) EXCEPTIONS.—

16 “(A) BACKGROUND CHECKS.—An indi-
17 vidual who is the subject of a record sealed
18 under this subchapter shall, and a Federal or
19 State law enforcement agency that possesses
20 such a record may, disclose the record in the
21 case of a background check for—

22 “(i) law enforcement employment; or

23 “(ii) any position that a Federal agen-
24 cy designates as a—

25 “(I) national security position; or

1 “(II) high-risk, public trust posi-
 2 tion.

3 “(B) DISCLOSURE TO ARMED FORCES.—A
 4 person may disclose protected information from
 5 a record sealed under this subchapter to the
 6 Secretaries of the military departments (or the
 7 Secretary of Homeland Security with respect to
 8 the Coast Guard when it is not operating as a
 9 service in the Navy) for the purpose of vetting
 10 an enlistment or commission, or with regard to
 11 any member of the Armed Forces.

12 “(C) CRIMINAL AND JUVENILE PRO-
 13 CEEDINGS.—A prosecutor may disclose pro-
 14 tected information from a record sealed under
 15 this subchapter if the information pertains to a
 16 potential witness in a Federal or State—

17 “(i) criminal proceeding; or

18 “(ii) juvenile delinquency proceeding.

19 “(D) AUTHORIZATION FOR INDIVIDUAL TO
 20 DISCLOSE OWN RECORD.—An individual who is
 21 the subject of a record sealed under this sub-
 22 chapter may choose to disclose the record.”.

23 (c) APPLICABILITY.—Sections 3642 and 3643 of title
 24 18, United States Code, as added by subsection (b), shall
 25 apply with respect to a covered nonviolent offense (as de-

1 fined in section 3641(a) of such title) that is committed
 2 or alleged to have been committed before, on, or after the
 3 date of enactment of this Act.

4 (d) TRANSITION PERIOD FOR HEARINGS DEAD-
 5 LINE.—During the 1-year period beginning on the date
 6 of enactment of this Act, section 3643(b)(2)(A) of title
 7 18, United States Code, as added by subsection (b), shall
 8 be applied by substituting “1 year” for “180 days”.

9 (e) TECHNICAL AND CONFORMING AMENDMENT.—
 10 The table of subchapters for chapter 229 of title 18,
 11 United States Code, is amended by adding at the end the
 12 following:

“E. Sealing of Criminal Records 3641”.

13 **SEC. 903. JUVENILE SEALING AND EXPUNGEMENT.**

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

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

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

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

1 **“§ 5031. Definitions**

2 “In this chapter—

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

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

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

14 “(4) the term ‘expunge’—

15 “(A) means to destroy a record and oblit-
16 erate the name of the person to whom the
17 record pertains from each official index or pub-
18 lic record; and

19 “(B) has the effect described in section
20 5045(c), including—

21 “(i) the right to treat an offense to
22 which an expunged record relates, and any
23 arrest, juvenile delinquency proceeding, ad-
24 judication, or other result of such pro-
25 ceeding relating to the offense, as if it
26 never occurred; and

1 “(ii) protection from civil and criminal
2 perjury, false swearing, and false state-
3 ment laws with respect to an expunged
4 record;

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

7 “(6) the term ‘expungement petition’ means a
8 petition for expungement filed under section
9 5045(b);

10 “(7) the term ‘juvenile’ means—

11 “(A) except as provided in subparagraph
12 (B), a person who has not attained the age of
13 18; and

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

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

23 “(9) the term ‘juvenile nonviolent offense’
24 means an act of juvenile delinquency that is not—

1 “(A) a violent crime (as defined in section
2 103 of the Juvenile Justice and Delinquency
3 Prevention Act of 1974 (34 U.S.C. 11103)); or

4 “(B) a sex offense (as defined in section
5 111 of the Sex Offender Registration and Noti-
6 fication Act (34 U.S.C. 20911));

7 “(10) the term ‘juvenile record’—

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

13 “(B) includes—

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

18 “(ii) a social record, including—

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

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

24 “(III) a medical record;

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

3 “(V) a birth certificate;

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

7 “(VII) a detention record;

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

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

17 “(iii) a law enforcement record, in-
18 cluding—

19 “(I) fingerprints;

20 “(II) a DNA sample; or

21 “(III) a photograph; and

22 “(iv) a State criminal justice informa-
23 tion system record;

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

1 “(12) the term ‘seal’—

2 “(A) means—

3 “(i) to close a record from public
4 viewing so that the record cannot be exam-
5 ined except by court order; and

6 “(ii) to physically seal the record shut
7 and label the record ‘SEALED’ or, in the
8 case of an electronic record, the sub-
9 stantive equivalent; and

10 “(B) has the effect described in section
11 5044(c), including—

12 “(i) the right to treat an offense to
13 which a sealed record relates, and any ar-
14 rest, juvenile delinquency proceeding, adju-
15 dication, or other result of such proceeding
16 relating to the offense, as if it never oc-
17 curred; and

18 “(ii) protection from civil and criminal
19 perjury, false swearing, and false state-
20 ment laws with respect to a sealed record;

21 “(13) the term ‘sealing hearing’ means a hear-
22 ing held under section 5044(b)(2)(B); and

23 “(14) the term ‘sealing petition’ means a peti-
24 tion for a sealing order filed under section
25 5044(b).”.

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

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

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

12 (d) SEALING; EXPUNGEMENT.—

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

16 **“§ 5044. Sealing**

17 “(a) AUTOMATIC SEALING OF NONVIOLENT OF-
18 FENSES.—

19 “(1) IN GENERAL.—Three years after the date
20 on which a person who is adjudicated delinquent
21 under this chapter for a juvenile nonviolent offense
22 completes every term of probation, official detention,
23 or juvenile delinquent supervision ordered by the
24 court with respect to the offense, the court shall

1 order the sealing of each juvenile record or portion
2 thereof that relates to the offense if the person—

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

6 “(B) is not engaged in active criminal
7 court proceedings or juvenile delinquency pro-
8 ceedings.

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

13 “(3) NOTICE OF AUTOMATIC SEALING.—A
14 court that orders the sealing of a juvenile record of
15 a person under paragraph (1) shall, in writing, in-
16 form the person of the sealing and the benefits of
17 sealing the record, including protection from civil
18 and criminal perjury, false swearing, and false state-
19 ment laws with respect to the record.

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

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

23 “(A) IN GENERAL.—During the 3-year pe-
24 riod beginning on the date on which a person
25 who is adjudicated delinquent under this chap-

1 ter for a juvenile nonviolent offense completes
2 every term of probation, official detention, or
3 juvenile delinquent supervision ordered by the
4 court with respect to the offense, the person
5 may petition the court to seal the juvenile
6 records that relate to the offense.

7 “(B) NOTICE OF OPPORTUNITY TO FILE
8 PETITION.—If a person is adjudged delinquent
9 for a juvenile nonviolent offense, the court in
10 which the person is adjudged delinquent shall,
11 in writing, inform the person of the potential
12 eligibility of the person to file a sealing petition
13 with respect to the offense upon completing
14 every term of probation, official detention, or
15 juvenile delinquent supervision ordered by the
16 court with respect to the offense, and the nec-
17 essary procedures for filing the sealing peti-
18 tion—

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

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

1 “(2) PROCEDURES.—

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

7 “(i) to the Attorney General; and

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

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

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

15 “(B) HEARING.—

16 “(i) IN GENERAL.—Not later than
17 180 days after the date on which a person
18 files a sealing petition, the court shall—

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(vi) the disposition of the case;

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

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

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

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

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

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

19 “(F) NO FEE FOR SEALING.—There shall
20 be no cost for filing a sealing petition.

21 “(G) REPORTING.—Not later than 2 years
22 after the date of enactment of this section, and
23 each year thereafter, each district court of the
24 United States shall issue a public report that—

25 “(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 court determines relevant and that
9 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 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) IN GENERAL.—Except as provided in this
22 subsection, if a court orders the sealing of a juvenile
23 record under subsection (a) or (b) with respect to a
24 juvenile nonviolent offense, the offense and any ar-
25 rest, juvenile delinquency proceeding, adjudication,

1 or other result of such proceeding relating to the of-
2 fense shall be treated as if it never occurred.

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

7 “(A) send a copy of the sealing order to
8 each entity or person known to the court that
9 possesses a record relating to the offense, in-
10 cluding each—

11 “(i) law enforcement agency; and

12 “(ii) public or private correctional or
13 detention facility;

14 “(B) in the sealing order, require each en-
15 tity or person described in subparagraph (A)
16 to—

17 “(i) seal the record; and

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

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

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

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

5 “(3) PROTECTION FROM PERJURY LAWS.—Ex-
6 cept as provided in paragraph (5)(C)(i), the person
7 who is the subject of a juvenile record sealed under
8 subsection (a) or (b) or a parent of the person shall
9 not be subject to prosecution under any civil or
10 criminal provision of Federal or State law relating to
11 perjury, false swearing, or making a false statement,
12 including section 1001, 1621, 1622, or 1623, for
13 failing to acknowledge the record or respond to any
14 inquiry made of the person or the parent, relating
15 to the record, for any purpose.

16 “(4) LAW ENFORCEMENT ACCESS TO SEALED
17 RECORDS.—A law enforcement agency may access a
18 sealed juvenile record of a person solely—

19 “(A) to determine whether the person is el-
20 igible for a first-time-offender diversion pro-
21 gram;

22 “(B) for investigatory or prosecutorial pur-
23 poses within the juvenile justice system; or

24 “(C) for a background check that relates
25 to—

- 1 “(i) law enforcement employment; or
2 “(ii) any position that a Federal agen-
3 cy designates as a—
4 “(I) national security position; or
5 “(II) high-risk, public trust posi-
6 tion.

7 “(5) PROHIBITION ON DISCLOSURE.—

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

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

17 “(C) EXCEPTIONS.—

18 “(i) BACKGROUND CHECKS.—A per-
19 son who is the subject of a juvenile record
20 sealed under this section shall, and a Fed-
21 eral or State law enforcement agency that
22 possesses such a record may, disclose the
23 record in the case of a background check
24 for—

1 “(I) law enforcement employ-
2 ment; or

3 “(II) any employment that re-
4 quires a government security clear-
5 ance.

6 “(ii) DISCLOSURE TO ARMED
7 FORCES.—A person may disclose informa-
8 tion from a sealed juvenile record to the
9 Secretaries of the military departments (or
10 the Secretary of Homeland Security with
11 respect to the Coast Guard when it is not
12 operating as a service in the Navy) for the
13 purpose of vetting an enlistment or com-
14 mission, or with regard to any member of
15 the Armed Forces.

16 “(iii) CRIMINAL AND JUVENILE PRO-
17 CEEDINGS.—A prosecutor may disclose in-
18 formation from a juvenile record sealed
19 under this section if the information per-
20 tains to a potential witness in a Federal or
21 State—

22 “(I) criminal proceeding; or

23 “(II) juvenile delinquency pro-
24 ceeding.

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

6 **“§ 5045. Expungement**

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

9 “(1) ATTORNEY GENERAL MOTION.—

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

21 “(B) ARRESTS.—If a juvenile is arrested
 22 for an offense for which a juvenile delinquency
 23 proceeding is not instituted under this sub-
 24 chapter, the Attorney General shall file a mo-
 25 tion in the district court of the United States

1 that would have had jurisdiction of the pro-
2 ceeding requesting that each juvenile record re-
3 lating to the arrest be expunged.

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

12 “(2) DISMISSED CASES.—If a district court of
13 the United States dismisses an information with re-
14 spect to a juvenile under this subchapter or finds a
15 juvenile not to be delinquent in a juvenile delin-
16 quency proceeding under this subchapter, the court
17 shall concurrently order that each juvenile record re-
18 lating to the applicable proceeding be expunged.

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

23 “(4) NOTICE OF AUTOMATIC EXPUNGEMENT.—
24 A court that orders the expungement of a juvenile
25 record of a person under paragraph (1)(C) or (2)

1 shall, in writing, inform the person of the
 2 expungement and the benefits of expunging the
 3 record, including protection from civil and criminal
 4 perjury, false swearing, and false statement laws
 5 with respect to the record.

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

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

15 “(2) PROCEDURES.—

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

21 “(i) to the Attorney General; and

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

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

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

5 “(B) HEARING.—

6 “(i) IN GENERAL.—Not later than
7 180 days after the date on which a person
8 files an expungement petition, the court
9 shall—

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

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

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

18 “(I) PETITIONER.—The peti-
19 tioner may testify or offer evidence at
20 the expungement hearing in support
21 of expungement.

22 “(II) PROSECUTOR.—The Attor-
23 ney General may send a representa-
24 tive to testify or offer evidence at the

1 expungement hearing in support of or
2 against expungement.

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

10 “(C) BASIS FOR DECISION.—The court
11 shall determine whether to grant an expunge-
12 ment petition after considering—

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

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

18 “(iii) the best interests of the peti-
19 tioner;

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

23 “(v) the nature of the juvenile non-
24 violent offense;

25 “(vi) the disposition of the case;

1 “(vii) the manner in which the peti-
2 tioner participated in any court-ordered re-
3 habilitative programming or supervised
4 services;

5 “(viii) the length of the time period
6 during which the petitioner has been with-
7 out contact with any court or any law en-
8 forcement agency;

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

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

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

21 “(E) UNIVERSAL FORM.—The Director of
22 the Administrative Office of the United States
23 Courts shall create a universal form, available
24 over the internet and in paper form, that an in-

1 dividual may use to file an expungement peti-
2 tion.

3 “(F) NO FEE FOR EXPUNGEMENT.—There
4 shall be no cost for filing an expungement peti-
5 tion.

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

10 “(i) describes—

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

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

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

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

23 “(H) PUBLIC DEFENDER ELIGIBILITY.—

24 “(i) PETITIONERS UNDER AGE 18.—

25 The district court shall appoint counsel in

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

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

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

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

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

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

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

6 “(1) IN GENERAL.—Except as provided in this
7 subsection, if a court orders the expungement of a
8 juvenile record under subsection (a) or (b) with re-
9 spect to a juvenile nonviolent offense—

10 “(A) the offense and any arrest, juvenile
11 delinquency proceeding, adjudication, or other
12 result of such proceeding relating to the offense
13 shall be treated as if it never occurred; and

14 “(B) the person to whom the record per-
15 tains shall not be required to disclose the exist-
16 ence of the record.

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

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

25 “(i) law enforcement agency; and

1 “(ii) public or private correctional or
2 detention facility;

3 “(B) in the expungement order, require
4 each entity or person described in subparagraph
5 (A) to—

6 “(i) destroy the record; and

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

11 “(C) destroy each paper and electronic
12 copy of the record in the possession of the
13 court; and

14 “(D) after receiving a written certification
15 from each entity or person under subparagraph
16 (B)(ii), notify the petitioner that each entity or
17 person described in subparagraph (A) has de-
18 stroyed each paper and electronic copy of the
19 record.

20 “(3) REPLY TO INQUIRIES.—In the case of an
21 inquiry relating to a juvenile record of a person that
22 is expunged under this section, the court in which
23 the proceeding took place, each law enforcement offi-
24 cer, any agency that provided treatment or rehabili-
25 tation services to the person, and the person (except

1 as provided in paragraph (6)) shall reply to the in-
2 quiry that no such juvenile record exists.

3 “(4) PROTECTION FROM PERJURY LAWS.—Ex-
4 cept as provided in paragraph (5), if a juvenile
5 record of a person is expunged under this section,
6 the person who is the subject of the record or a par-
7 ent of the person shall not be subject to prosecution
8 under any civil or criminal provision of Federal or
9 State law relating to perjury, false swearing, or
10 making a false statement, including section 1001,
11 1621, 1622, or 1623, for failing to acknowledge the
12 record or respond to any inquiry made of the person
13 or the parent, relating to the record, for any pur-
14 pose.

15 “(5) CIVIL ACTIONS.—

16 “(A) IN GENERAL.—If a person whose ju-
17 venile record is expunged under this section
18 brings an action that might be defended with
19 the contents of the record, there shall be a re-
20 buttable presumption that the defendant has a
21 complete defense to the action.

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

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

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

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

15 “(6) CRIMINAL AND JUVENILE PRO-
16 CEEDINGS.—A prosecutor may disclose information
17 from a juvenile record expunged under this section
18 if the information pertains to a potential witness in
19 a Federal or State—

20 “(A) criminal proceeding; or

21 “(B) juvenile delinquency proceeding.

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

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

“5044. Sealing.

“5045. Expungement.”.

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

12 (e) JUVENILE SOLITARY CONFINEMENT.—Chapter
 13 403 of title 18, United States Code, as amended by this
 14 title, is further amended by striking section 5043 and in-
 15 serting the following:

16 **“§ 5043. Juvenile solitary confinement**

17 “(a) DEFINITIONS.—In this section—

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

19 “(A) a juvenile who—

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

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

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

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

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

8 “(B) detained prior to disposition or con-
9 viction; and

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

13 “(b) PROHIBITION ON ROOM CONFINEMENT IN JU-
14 VENILE FACILITIES.—

15 “(1) IN GENERAL.—The use of room confine-
16 ment at a juvenile facility for discipline, punishment,
17 retaliation, or any reason other than as a temporary
18 response to a covered juvenile’s behavior that poses
19 a serious and immediate risk of physical harm to
20 any individual, including the covered juvenile, is pro-
21 hibited.

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

23 “(A) REQUIREMENT TO USE LEAST RE-
24 STRICTIVE TECHNIQUES.—

1 “(i) IN GENERAL.—Before a staff
2 member of a juvenile facility places a cov-
3 ered juvenile in room confinement, the
4 staff member shall attempt to use less re-
5 strictive techniques, including—

6 “(I) talking with the covered ju-
7 venile in an attempt to de-escalate the
8 situation; and

9 “(II) permitting a qualified men-
10 tal health professional, or a staff
11 member who has received training in
12 de-escalation techniques and trauma-
13 informed care, to talk to the covered
14 juvenile.

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

21 “(I) explain to the covered juve-
22 nile the reasons for the room confine-
23 ment; and

1 “(II) inform the covered juvenile
2 that release from room confinement
3 will occur—

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

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

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

19 “(i) immediately when the covered ju-
20 venile has sufficiently gained control so as
21 to no longer engage in behavior that
22 threatens serious and immediate risk of
23 physical harm to himself or herself, or to
24 others; or

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

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

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

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

21 “(i) the covered juvenile shall be
22 transferred immediately to another juvenile
23 facility or internal location where services
24 can be provided to the covered juvenile
25 without relying on room confinement; or

1 “(ii) if a qualified mental health pro-
 2 fessional believes the level of crisis service
 3 needed is not currently available, a staff
 4 member of the juvenile facility shall imme-
 5 diately transport the juvenile to—

6 “(I) an emergency medical facil-
 7 ity; or

8 “(II) an equivalent location that
 9 can meet the needs of the covered ju-
 10 venile.

11 “(D) ACTION BEFORE EXPIRATION OF
 12 TIME LIMIT.—Nothing in subparagraph (C)
 13 shall be construed to prohibit an action de-
 14 scribed in clause (i) or (ii) of that subparagraph
 15 from being taken before the applicable max-
 16 imum period of confinement under subclause (I)
 17 or (II) of subparagraph (B)(ii) has expired.

18 “(E) CONDITIONS.—A room used for room
 19 confinement for a juvenile shall—

20 “(i) have not less than 80 square feet
 21 of floor space;

22 “(ii) have adequate lighting, heating
 23 or cooling (as applicable), and ventilation
 24 for the comfort of the juvenile;

1 “(iii) be suicide-resistant and protru-
2 sion-free; and

3 “(iv) have access to clean potable
4 water, toilet facilities, and hygiene sup-
5 plies.

6 “(F) NOTICE.—

7 “(i) USE OF ROOM CONFINEMENT.—
8 Not later than 1 business day after the
9 date on which a juvenile facility places a
10 covered juvenile in room confinement, the
11 juvenile facility shall provide notice to the
12 attorney of record for the juvenile.

13 “(ii) TRANSFER.—Not later than 24
14 hours after a covered juvenile is trans-
15 ferred from a juvenile facility to another
16 location, the juvenile facility shall provide
17 notice to—

18 “(I) the attorney of record for
19 the juvenile; and

20 “(II) an authorized parent or
21 guardian of the juvenile.

22 “(G) SPIRIT AND PURPOSE.—The use of
23 consecutive periods of room confinement to
24 evade the spirit and purpose of this subsection
25 shall be prohibited.

1 “(c) STUDY AND REPORT.—Not later than 2 years
 2 after the date of enactment of this section, and each year
 3 thereafter, the Attorney General shall submit to Congress
 4 a report that—

5 “(1) contains a detailed description of the type
 6 of physical force, restraints, and room confinement
 7 used at juvenile facilities;

8 “(2) describes the number of instances in which
 9 physical force, restraints, or room confinement are
 10 used at juvenile facilities, disaggregated by race, eth-
 11 nicity, and gender; and

12 “(3) contains a detailed description of steps
 13 taken, in each instance in which room confinement
 14 is used at a juvenile facility, to address and remedy
 15 the underlying issue that led to behavioral interven-
 16 tion resulting in the use of room confinement, in-
 17 cluding any positive or negative outcomes.”.

18 **SEC. 904. STUDY AND REPORT ON COST SAVINGS FROM**
 19 **SEALING AND EXPUNGEMENT PROVISIONS.**

20 (a) STUDY.—

21 (1) IN GENERAL.—Not later than 5 years after
 22 the date of enactment of this Act, the Attorney Gen-
 23 eral, in consultation with the Secretary of Labor and
 24 the Director of the Office of Management and Budg-
 25 et, shall conduct a study on the cost savings and

1 broader economic impact of the sealing and
2 expungement provisions in the amendments made by
3 sections 902, 903, and 906 of this title.

4 (2) CONSIDERATIONS.—In conducting the study
5 under paragraph (1), the Attorney General shall
6 consider—

7 (A) the reduction in recidivism and associ-
8 ated cost savings related to corrections and
9 public safety;

10 (B) increased economic activity by former
11 offenders, including by conducting an analysis
12 of the tax revenue generated by that activity;
13 and

14 (C) the economic impact on the household
15 of former offenders and the children of former
16 offenders.

17 (b) REPORT.—Not later than 5 years after the date
18 of enactment of this Act, the Attorney General shall sub-
19 mit to Congress a report on the study conducted under
20 subsection (a).

21 **SEC. 905. TANF ASSISTANCE AND SNAP BENEFITS.**

22 (a) REPEAL OF BAN ON ASSISTANCE.—Section 115
23 of the Personal Responsibility and Work Opportunity Rec-
24 onciliation Act of 1996 (21 U.S.C. 862a) is repealed.

1 (b) EFFECT ON STATE ELECTIONS TO OPT OUT OR
2 LIMIT PERIOD OF PROHIBITION.—

3 (1) DEFINITIONS.—In this subsection—

4 (A) the term “State” has the meaning
5 given the term in section 115(e) of the Personal
6 Responsibility and Work Opportunity Reconcili-
7 ation Act of 1996 (21 U.S.C. 862a(e)) (as in
8 effect on the day before the date of enactment
9 of this Act); and

10 (B) the term “TANF assistance or SNAP
11 benefits” means assistance or benefits referred
12 to in section 115(a) of the Personal Responsi-
13 bility and Work Opportunity Reconciliation Act
14 of 1996 (as in effect on the day before the date
15 of enactment of this Act).

16 (2) EFFECT.—A law enacted by a State under
17 the authority under subparagraph (A) or (B) of sub-
18 section (d)(1) of section 115 of the Personal Respon-
19 sibility and Work Opportunity Reconciliation Act of
20 1996 (21 U.S.C. 862a) (as in effect on the day be-
21 fore the date of enactment of this Act), and any
22 State law or regulation enacted to carry out the re-
23 quirements of such section (as then in effect), that
24 imposes conditions on eligibility for TANF assist-
25 ance or SNAP benefits shall have no force or effect.

1 **SEC. 906. STATE INCENTIVES.**

2 (a) COPS GRANTS PRIORITY.—Section 1701 of title
3 I of the Omnibus Crime Control and Safe Streets Act of
4 1968 (34 U.S.C. 10381) is amended—

5 (1) in subsection (c)—

6 (A) in paragraph (2), by striking “or” at
7 the end;

8 (B) in paragraph (3), by striking the pe-
9 riod at the end and inserting “; or”; and

10 (C) by adding at the end the following:

11 “(4) subject to subsection (n)(1), from an appli-
12 cant in a State that has in effect—

13 “(A) a law relating to the confidentiality,
14 sealing, and expungement of juvenile records
15 that is substantially similar to, or more gen-
16 erous to the former offender than, the amend-
17 ments made by subsections (b) through (d) of
18 section 903 of the Record Expungement De-
19 signed to Enhance Employment Act of 2019;

20 “(B) a law prohibiting juvenile solitary
21 confinement that is substantially similar to, or
22 more restrictive than, the amendment made by
23 subsection (e) of section 903 of the Record
24 Expungement Designed to Enhance Employ-
25 ment Act of 2019;

1 “(C) a law relating to the sealing of adult
2 records that is substantially similar to, or more
3 generous to the former offender than, the
4 amendments made by section 902 of the Record
5 Expungement Designed to Enhance Employ-
6 ment Act of 2019;

7 “(D) subject to subsection (n)(2), a law
8 that establishes that an adult criminal court
9 may not have original jurisdiction over an indi-
10 vidual who was less than 18 years of age when
11 the individual committed an offense;

12 “(E) a law that allows an individual who
13 has successfully sealed or expunged a criminal
14 record to be free from civil and criminal perjury
15 laws; or

16 “(F) a law or policy that ensures to the
17 maximum extent practicable, for juveniles who
18 have been arrested for or convicted of a crimi-
19 nal offense—

20 “(i) equal sentencing guidelines, with-
21 out regard to gender; and

22 “(ii) equal access, without regard to
23 gender, to services, assistance, or benefits
24 provided.”; and

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

1 “(n) RULES FOR PREFERENTIAL CONSIDERATION OF
2 STATES WITH LAWS SIMILAR TO REDEEM ACT.—

3 “(1) DEGREE OF PRIORITY COMMENSURATE
4 WITH DEGREE OF COMPLIANCE.—If the Attorney
5 General, in awarding grants under this part, gives
6 preferential consideration to any application as au-
7 thorized under subsection (c)(4), the Attorney Gen-
8 eral shall base the degree of preferential consider-
9 ation given to an application from an applicant in a
10 particular State on the number of subparagraphs
11 under that subsection that the State has satisfied,
12 relative to the number of such subparagraphs that
13 each other State has satisfied.

14 “(2) JUVENILE TRANSFER PROVISIONS.—Sub-
15 section (c)(4)(D) shall not be construed to preclude
16 from preferential consideration an application from
17 an applicant in a State that—

18 “(A) has in effect a law that authorizes the
19 transfer of an individual who is less than 18
20 years of age to adult criminal court if the indi-
21 vidual commits a specified offense or an offense
22 that falls under a specified category of offenses;
23 or

24 “(B) exercises other case-specific transfer
25 mechanisms.”.

1 (b) ATTORNEY GENERAL GUIDELINES AND TECH-
 2 NICAL ASSISTANCE.—The Attorney General shall issue
 3 guidelines and provide technical assistance to assist States
 4 in complying with the incentive under paragraph (4) of
 5 section 1701(c) of title I of the Omnibus Crime Control
 6 and Safe Streets Act of 1968 (34 U.S.C. 10381(c)), as
 7 added by subsection (a).

8 **SEC. 907. GENDER EQUALITY IN FEDERAL JUVENILE DE-**
 9 **LINQUENCY PROCEEDINGS.**

10 (a) DISPOSITIONS.—Section 5037 of title 18, United
 11 States Code, is amended by adding at the end the fol-
 12 lowing:

13 “(f) GENDER EQUALITY.—

14 “(1) POLICY OF THE UNITED STATES.—It is
 15 the policy of the United States that there should be
 16 no disparities based on gender in dispositions of ju-
 17 venile cases.

18 “(2) DIRECTIVE TO SENTENCING COMMISSION
 19 AND COURTS.—The United States Sentencing Com-
 20 mission, in promulgating sentencing guidelines and
 21 policy statements applicable to dispositions of dis-
 22 trict courts exercising jurisdiction over juveniles, and
 23 the courts, in determining such dispositions, shall
 24 take care to avoid and remedy any disparities de-
 25 scribed in paragraph (1).”.

1 (b) COMMITMENTS.—Section 5039 of title 18, United
 2 States Code, is amended, in the second paragraph, by add-
 3 ing at the end the following: “The Attorney General shall
 4 promulgate regulations that ensure, to the maximum ex-
 5 tent practicable, equal access, without regard to gender,
 6 to services, assistance, or benefits provided, to juveniles
 7 who have been arrested under Federal authority, or com-
 8 mitted pursuant to an adjudication under this chapter, for
 9 juvenile delinquency.”.

10 **SEC. 908. ENSURING ACCURACY IN THE FBI BACKGROUND**
 11 **CHECK SYSTEM.**

12 (a) IN GENERAL.—Section 534 of title 28, United
 13 States Code, as amended by title VIII, is amended by add-
 14 ing at the end the following:

15 “(h) ENSURING ACCURACY IN THE FBI BACK-
 16 GROUND CHECK SYSTEM.—

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

18 “(A) the term ‘applicant’ means the indi-
 19 vidual to whom a record sought to be exchanged
 20 pertains;

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

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

1 “(ii) indicates that an individual was
2 arrested or criminal proceedings were insti-
3 tuted against an individual but does not
4 include the final disposition of the arrest
5 or of the proceedings if a final disposition
6 has been reached;

7 “(C) the term ‘record’ means a record or
8 other information collected under this section;

9 “(D) the term ‘reporting jurisdiction’
10 means any person or entity that provides a
11 record to the Attorney General under this sec-
12 tion; and

13 “(E) the term ‘requesting entity’—

14 “(i) means a person or entity that
15 seeks the exchange of a record for civil
16 purposes that include employment, occupa-
17 tional licensing, occupational certification,
18 housing, credit, or any other type of appli-
19 cation; and

20 “(ii) does not include a law enforce-
21 ment or intelligence agency that seeks the
22 exchange of a record for—

23 “(I) investigative purposes; or

24 “(II) purposes relating to law en-
25 forcement employment.

1 “(2) INCOMPLETE OR INACCURATE RECORDS.—

2 The Attorney General shall establish and enforce
3 procedures to ensure the prompt release of accurate
4 records exchanged for civil purposes through the
5 records system created under this section.

6 “(3) REQUIRED PROCEDURES.—The procedures
7 established under paragraph (2) shall include the
8 following:

9 “(A) INACCURATE RECORD OR INFORMA-
10 TION.—If the Attorney General determines that
11 a record is inaccurate, the Attorney General
12 shall, not later than 10 days after the date on
13 which the requesting entity requests the ex-
14 change and before the exchange is made,
15 promptly correct the record, including by mak-
16 ing deletions to the record if appropriate.

17 “(B) INCOMPLETE RECORD.—

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

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

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

1 any changes or deletions to the
2 record.

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

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

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

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

1 “(i) obtain the consent of the appli-
2 cant to exchange the record with the re-
3 questing entity;

4 “(ii) at the time of consent, notify the
5 applicant that the applicant can obtain a
6 copy of the record;

7 “(iii) provide to the applicant an op-
8 portunity to—

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

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

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

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

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

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

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

1 “(E) CERTAIN EXCHANGES PROHIBITED.—

2 An exchange shall not include any record—

3 “(i) about an arrest more than 2
4 years old as of the date of the request for
5 the exchange, that does not also include a
6 disposition (if any) of that arrest;

7 “(ii) relating to an adult or juvenile
8 non-serious offense of the sort described in
9 section 20.32(b) of title 28, Code of Fed-
10 eral Regulations, as in effect on July 1,
11 2009; or

12 “(iii) to the extent the record is not
13 clearly an arrest or a disposition of an ar-
14 rest.

15 “(4) FEES.—The Attorney General may collect
16 a reasonable fee for an exchange of records for civil
17 purposes through the records system created under
18 this section to defray the costs associated with ex-
19 changes for those purposes, including any costs asso-
20 ciated with the investigation of inaccurate or incom-
21 plete records.”.

22 (b) REGULATIONS ON REASONABLE PROCEDURES.—

23 Not later than 1 year after the date of enactment of this
24 Act, the Attorney General shall issue regulations to carry

1 out section 534(h) of title 28, United States Code, as
2 added by subsection (a).

3 (c) REPORT.—Not later than 2 years after the date
4 of enactment of this Act, the Attorney General shall sub-
5 mit to Congress a report on the implementation of sub-
6 section (h) of section 534 of title 28, United States Code,
7 as added by subsection (a), that includes—

8 (1) the number of exchanges of records for civil
9 purposes made with entities in each State through
10 the records system created under such section 534;

11 (2) any prolonged failure of a reporting juris-
12 diction to comply with a request by the Attorney
13 General for information about dispositions of ar-
14 rests; and

15 (3) the numbers of successful and unsuccessful
16 challenges to the accuracy and completeness of
17 records, organized by State of origination of each
18 record.

19 **SEC. 909. REPORT ON STATUTORY AND REGULATORY RE-**
20 **STRICTIONS AND DISQUALIFICATIONS BASED**
21 **ON CRIMINAL RECORDS.**

22 (a) IN GENERAL.—Not later than 2 years after the
23 date of enactment of this Act, the Attorney General, in
24 consultation with the Secretary of Labor and the Director
25 of the Office of Personnel Management, shall submit to

1 Congress a report on each Federal statute, regulation, or
2 policy that authorizes a restriction on, or disqualification
3 of, an applicant for employment or for a Federal license
4 or permit based on the criminal record of the applicant.

5 (b) IDENTIFICATION OF INFORMATION.—In the re-
6 port submitted under subsection (a), the Attorney General
7 shall—

8 (1) identify each occupation, position, license,
9 or permit to which a restriction or disqualification
10 described in subsection (a) applies; and

11 (2) for each occupation, position, license, or
12 permit identified under paragraph (1), include—

13 (A) a description of the restriction or dis-
14 qualification;

15 (B) the duration of the restriction or dis-
16 qualification;

17 (C) an evaluation of the rationale for the
18 restriction or disqualification and its continuing
19 usefulness;

20 (D) the procedures, if any, to appeal,
21 waive, or exempt the restriction or disqualifica-
22 tion based on a showing of rehabilitation or
23 other relevant evidence;

1 (E) any information available about the
 2 numbers of individuals restricted or disqualified
 3 on the basis of a criminal record; and

4 (F) the identity of the Federal agency with
 5 jurisdiction over the restriction or disqualifica-
 6 tion.

7 **TITLE X—DEMOCRACY**
 8 **RESTORATION ACT**

9 **SEC. 1001. SHORT TITLE.**

10 This title may be cited as the “Democracy Restora-
 11 tion Act of 2019”.

12 **SEC. 1002. FINDINGS.**

13 Congress makes the following findings:

14 (1) The right to vote is the most basic constitu-
 15 tive act of citizenship. Regaining the right to vote
 16 reintegrates individuals with criminal convictions
 17 into free society, helping to enhance public safety.

18 (2) Article I, section 4, of the Constitution of
 19 the United States grants Congress ultimate super-
 20 visory power over Federal elections, an authority
 21 which has repeatedly been upheld by the Supreme
 22 Court of the United States.

23 (3) Basic constitutional principles of fairness
 24 and equal protection require an equal opportunity
 25 for citizens of the United States to vote in Federal

1 elections. The right to vote may not be abridged or
2 denied by the United States or by any State on ac-
3 count of race, color, gender, or previous condition of
4 servitude. The 13th, 14th, 15th, 19th, 24th, and
5 26th Amendments to the Constitution of the United
6 States empower Congress to enact measures to pro-
7 tect the right to vote in Federal elections. The 8th
8 Amendment to the Constitution of the United States
9 provides for no excessive bail to be required, nor ex-
10 cessive fines imposed, nor cruel and unusual punish-
11 ments inflicted.

12 (4) There are 3 areas where discrepancies in
13 State laws regarding criminal convictions lead to un-
14 fairness in Federal elections—

15 (A) the lack of a uniform standard for vot-
16 ing in Federal elections leads to an unfair dis-
17 parity and unequal participation in Federal
18 elections based solely on where a person lives;

19 (B) laws governing the restoration of vot-
20 ing rights after a criminal conviction vary
21 throughout the country and persons in some
22 States can easily regain their voting rights
23 while in other States persons effectively lose
24 their right to vote permanently; and

1 (C) State disenfranchisement laws dis-
2 proportionately impact racial and ethnic minori-
3 ties.

4 (5) Two States do not disenfranchise individ-
5 uals with criminal convictions at all (Maine and
6 Vermont), but 48 States and the District of Colum-
7 bia have laws that deny convicted individuals the
8 right to vote while they are in prison.

9 (6) In some States disenfranchisement results
10 from varying State laws that restrict voting while in-
11 dividuals are under the supervision of the criminal
12 justice system or after they have completed a crimi-
13 nal sentence. In 34 States, convicted individuals may
14 not vote while they are on parole and 30 of those
15 States disenfranchise individuals on felony probation
16 as well. In 10 States, a conviction can result in life-
17 time disenfranchisement.

18 (7) Several States deny the right to vote to in-
19 dividuals convicted of certain misdemeanors.

20 (8) In 2016, an estimated 6,100,000 citizens of
21 the United States, or about 1 in 40 adults in the
22 United States, could not vote as a result of a felony
23 conviction. Of the 6,100,000 citizens barred from
24 voting, only approximately 22 percent were in pris-
25 on. By contrast, roughly 77 percent of the disenfran-

1 chised reside in their communities while on proba-
2 tion or parole or after having completed their sen-
3 tences. Approximately 3,100,000 citizens who com-
4 pleted their sentences remain disenfranchised due to
5 restrictive State laws. In six States—Alabama, Flor-
6 ida, Kentucky, Mississippi, Tennessee, and Vir-
7 ginia—more than 7 percent of the total population
8 is disenfranchised. As of November 2018, the life-
9 time ban for felons was eliminated through a Florida
10 ballot initiative. As a result, 1,400,000 people had
11 their voting rights restored.

12 (9) In those States that disenfranchise individ-
13 uals post-sentence, the right to vote can be regained
14 in theory, but in practice this possibility is often
15 granted in a non-uniform and potentially discrimina-
16 tory manner. Disenfranchised individuals must ei-
17 ther obtain a pardon or an order from the Governor
18 or an action by the parole or pardon board, depend-
19 ing on the offense and State. Individuals convicted
20 of a Federal offense often have additional barriers to
21 regaining voting rights.

22 (10) State disenfranchisement laws dispropor-
23 tionately impact racial and ethnic minorities. As of
24 2016, more than 7 percent of the voting-age Afri-
25 can-American population, or 2,200,000 African

1 Americans, were disenfranchised. One out of every
2 13 African Americans were unable to vote because
3 of felony disenfranchisement, which is a rate more
4 than 4 times greater than non-African Americans.
5 7.4 percent of African Americans are disenfran-
6 chised whereas only 1.8 percent of non-African
7 Americans were. In 2016, in 4 States—Florida (23
8 percent), Kentucky (22 percent), Tennessee (21 per-
9 cent), and Virginia (20 percent)—more than 1 in 5
10 African Americans were unable to vote because of
11 prior convictions.

12 (11) Latino citizens are also disproportionately
13 disenfranchised based upon their disproportionate
14 representation in the criminal justice system. If cur-
15 rent incarceration trends hold, the lifetime likelihood
16 of incarceration for males born in 2011 is 17 per-
17 cent for Latinos, in contrast to less than 6 percent
18 of non-Latino White men. When analyzing the data
19 across 10 States, Latinos generally have dispropor-
20 tionately higher rates of disenfranchisement com-
21 pared to their presence in the voting age population.
22 In 6 out of 10 States studied in 2003, Latinos con-
23 stitute more than 10 percent of the total number of
24 persons disenfranchised by State felony laws. In 4
25 States (California, 37 percent; New York, 34 per-

1 cent; Texas, 30 percent; and Arizona, 27 percent),
2 Latinos were disenfranchised by a rate of more than
3 25 percent.

4 (12) Disenfranchising citizens who have been
5 convicted of a criminal offense and who are living
6 and working in the community serves no compelling
7 State interest and hinders their rehabilitation and
8 reintegration into society.

9 (13) State disenfranchisement laws can sup-
10 press electoral participation among eligible voters by
11 discouraging voting among family and community
12 members of disenfranchised persons. Future elec-
13 toral participation by the children of disenfranchised
14 parents may be impacted as well.

15 (14) The United States is the only Western de-
16 mocracy that permits the permanent denial of voting
17 rights for individuals with felony convictions.

18 **SEC. 1003. DEFINITIONS.**

19 In this title:

20 (1) CORRECTIONAL INSTITUTION OR FACIL-
21 ITY.—The term “correctional institution or facility”
22 means any prison, penitentiary, jail, or other institu-
23 tion or facility for the confinement of individuals
24 convicted of criminal offenses, whether publicly or
25 privately operated, except that such term does not

1 include any residential community treatment center
2 (or similar public or private facility).

3 (2) ELECTION.—The term “election” means—

4 (A) a general, special, primary, or runoff
5 election;

6 (B) a convention or caucus of a political
7 party held to nominate a candidate;

8 (C) a primary election held for the selec-
9 tion of delegates to a national nominating con-
10 vention of a political party; or

11 (D) a primary election held for the expres-
12 sion of a preference for the nomination of per-
13 sons for election to the office of President.

14 (3) FEDERAL OFFICE.—The term “Federal of-
15 fice” means the office of President or Vice President
16 of the United States, or of Senator or Representa-
17 tive in, or Delegate or Resident Commissioner to,
18 the Congress of the United States.

19 (4) PROBATION.—The term “probation” means
20 probation, imposed by a Federal, State, or local
21 court, with or without a condition on the individual
22 involved concerning—

23 (A) the individual’s freedom of movement;

24 (B) the payment of damages by the indi-
25 vidual;

1 (C) periodic reporting by the individual to
 2 an officer of the court; or

3 (D) supervision of the individual by an of-
 4 ficer of the court.

5 **SEC. 1004. RIGHTS OF CITIZENS.**

6 The right of an individual who is a citizen of the
 7 United States to vote in any election for Federal office
 8 shall not be denied or abridged because that individual has
 9 been convicted of a criminal offense unless such individual
 10 is serving a felony sentence in a correctional institution
 11 or facility at the time of the election.

12 **SEC. 1005. ENFORCEMENT.**

13 (a) ATTORNEY GENERAL.—The Attorney General
 14 may, in a civil action, obtain such declaratory or injunctive
 15 relief as is necessary to remedy a violation of this title.

16 (b) PRIVATE RIGHT OF ACTION.—

17 (1) IN GENERAL.—A person who is aggrieved
 18 by a violation of this title may provide written notice
 19 of the violation to the chief election official of the
 20 State involved.

21 (2) RELIEF.—Except as provided in paragraph
 22 (3), if the violation is not corrected within 90 days
 23 after receipt of a notice under paragraph (1), or
 24 within 20 days after receipt of the notice if the viola-
 25 tion occurred within 120 days before the date of an

1 election for Federal office, the aggrieved person
2 may, in a civil action, obtain declaratory or injunc-
3 tive relief with respect to the violation.

4 (3) EXCEPTION.—If the violation occurred
5 within 30 days before the date of an election for
6 Federal office, the aggrieved person need not provide
7 notice to the chief election official of the State under
8 paragraph (1) before bringing a civil action to obtain
9 declaratory or injunctive relief with respect to the
10 violation.

11 **SEC. 1006. NOTIFICATION OF RESTORATION OF VOTING**
12 **RIGHTS.**

13 (a) STATE NOTIFICATION.—

14 (1) NOTIFICATION.—On the date determined
15 under paragraph (2), each State shall notify in writ-
16 ing any individual who has been convicted of a
17 criminal offense under the law of that State that
18 such individual has the right to vote in an election
19 for Federal office pursuant to this title and may reg-
20 ister to vote in any such election.

21 (2) DATE OF NOTIFICATION.—

22 (A) FELONY CONVICTION.—In the case of
23 such an individual who has been convicted of a
24 felony, the notification required under para-

graph (1) shall be given on the date on which
the individual—

(i) is sentenced to serve only a term
of probation; or

(ii) is released from the custody of
that State (other than to the custody of
another State or the Federal Government
to serve a term of imprisonment for a fel-
ony conviction).

(B) MISDEMEANOR CONVICTION.—In the
case of such an individual who has been con-
victed of a misdemeanor, the notification re-
quired under paragraph (1) shall be given on
the date on which such individual is sentenced
by a State court.

(b) FEDERAL NOTIFICATION.—

(1) NOTIFICATION.—Any individual who has
been convicted of a criminal offense under Federal
law shall be notified in accordance with paragraph
(2) that such individual has the right to vote in an
election for Federal office pursuant to the this title
and may register to vote in any such election.

(2) DATE OF NOTIFICATION.—

(A) FELONY CONVICTION.—In the case of
such an individual who has been convicted of a

1 felony, the notification required under para-
2 graph (1) shall be given—

3 (i) in the case of an individual who is
4 sentenced to serve only a term of proba-
5 tion, by the Assistant Director for the Of-
6 fice of Probation and Pretrial Services of
7 the Administrative Office of the United
8 States Courts on the date on which the in-
9 dividual is sentenced; or

10 (ii) in the case of any individual com-
11 mitted to the custody of the Bureau of
12 Prisons, by the Director of the Bureau of
13 Prisons, during the period beginning on
14 the date that is 6 months before such indi-
15 vidual is released and ending on the date
16 such individual is released from the cus-
17 tody of the Bureau of Prisons.

18 (B) MISDEMEANOR CONVICTION.—In the
19 case of such an individual who has been con-
20 victed of a misdemeanor, the notification re-
21 quired under paragraph (1) shall be given on
22 the date on which such individual is sentenced
23 by a court established by an Act of Congress.

1 **SEC. 1007. RELATION TO OTHER LAWS.**

2 (a) STATE LAWS RELATING TO VOTING RIGHTS.—

3 Nothing in this title shall be construed to prohibit the
4 States from enacting any State law which affords the right
5 to vote in any election for Federal office on terms less
6 restrictive than those established by this title.

7 (b) CERTAIN FEDERAL ACTS.—The rights and rem-
8 edies established by this title are in addition to all other
9 rights and remedies provided by law, and neither rights
10 and remedies established by this title shall supersede, re-
11 strict, or limit the application of the Voting Rights Act
12 of 1965 (52 U.S.C. 10301 et seq.) or the National Voter
13 Registration Act (52 U.S.C. 20501).

14 **SEC. 1008. FEDERAL PRISON FUNDS.**

15 No State, unit of local government, or other person
16 may receive or use, to construct or otherwise improve a
17 prison, jail, or other place of incarceration, any Federal
18 funds unless that State, unit of local government, or per-
19 son—

20 (1) is in compliance with section 1004; and

21 (2) has in effect a program under which each
22 individual incarcerated in that person's jurisdiction
23 who is a citizen of the United States is notified,
24 upon release from such incarceration, of that indi-
25 vidual's rights under section 1004.

1 **SEC. 1009. EFFECTIVE DATE.**

2 This title shall apply to citizens of the United States
3 voting in any election for Federal office held after the date
4 of the enactment of this Act.

5 **TITLE XI—NEW PATHWAYS ACT**

6 **SEC. 1101. SHORT TITLE.**

7 This title may be cited as the “New Pathways Act”.

8 **SEC. 1102. IDENTIFICATION FOR RETURNING CITIZENS.**

9 Section 231(b) of the Second Chance Act of 2007 (34
10 U.S.C. 60541(b)) is amended to read as follows:

11 “(b) IDENTIFICATION AND RELEASE ASSISTANCE
12 FOR FEDERAL PRISONERS.—

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

14 “(A) the term ‘community confinement’
15 means residence in a community treatment cen-
16 ter, halfway house, restitution center, mental
17 health facility, alcohol or drug rehabilitation
18 center, or other community facility;

19 “(B) the term ‘direct-release prisoner’
20 means a prisoner who is scheduled for release
21 and will not be placed in prerelease custody;

22 “(C) the term ‘noncitizen covered indi-
23 vidual’—

24 “(i) means an individual in the cus-
25 tody of the Bureau of Prisons or sentenced

1 to a term in community confinement
2 who—

3 “(I) is lawfully present and eligi-
4 ble for employment authorization in
5 the United States; and

6 “(II) has a document dem-
7 onstrating that the individual will
8 have a place of residence upon release;
9 and

10 “(ii) includes an alien lawfully admit-
11 ted for permanent residence (as defined in
12 section 101(a) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1101(a)), a refugee
14 (as defined in that section of that Act),
15 and an asylee; and

16 “(D) the term ‘United States citizen cov-
17 ered individual’ means an individual in the cus-
18 tody of the Bureau of Prisons or sentenced to
19 a term in community confinement who has—

20 “(i) a social security card;

21 “(ii) a document described in para-
22 graph (2)(B)(ii) as proof of United States
23 citizenship; and

1 “(iii) a document demonstrating that
2 the individual will have a place of residence
3 upon release.

4 “(2) OBTAINING IDENTIFICATION FOR UNITED
5 STATES CITIZENS.—

6 “(A) IN GENERAL.—With respect to a
7 United States citizen covered individual, the Di-
8 rector shall provide a photo identification card,
9 which shall comply with the minimum require-
10 ments described in section 202(b) of the REAL
11 ID Act of 2005 (49 U.S.C. 30301 note), prior
12 to—

13 “(i) the release of the United States
14 citizen covered individual from a term of
15 imprisonment in a Federal prison; or

16 “(ii) the release of the United States
17 citizen covered individual from a sentence
18 to a term in community confinement.

19 “(B) ASSISTANCE IN OBTAINING DOCU-
20 MENTS.—

21 “(i) IN GENERAL.—Subject to clause
22 (iii), for the purpose of issuing an identi-
23 fication card under this subsection, the Di-
24 rector shall obtain, on behalf of United
25 States citizen covered individuals—

1 “(I) a social security card; and

2 “(II) a document described in
3 clause (ii) as proof of United States
4 citizenship.

5 “(ii) PROOF OF UNITED STATES CITI-
6 ZENSHIP.—A document described in this
7 clause is—

8 “(I) a United States passport;

9 “(II) an original or certified copy
10 of a birth certificate that indicates
11 that the individual was born in the
12 United States or a territory of the
13 United States;

14 “(III) in the case of a United
15 States citizen born inside the United
16 States for whom a document de-
17 scribed in subclause (I) or (II) is not
18 available, any document described in
19 subsection (a), (b), or (c) of section
20 435.407 of title 42, Code of Federal
21 Regulations, or any successor thereto;
22 or

23 “(IV) in the case of a United
24 States citizen born outside the United

1 States, an original or certified copy
2 of—

3 “(aa) a certificate of natu-
4 ralization (Form N-550 or N-
5 570);

6 “(bb) a consular report of
7 birth abroad (Form FS-240);

8 “(cc) a certification of birth
9 abroad (Form FS-545);

10 “(dd) a certification of re-
11 port of birth (Form DS-1350);

12 or

13 “(ee) a certificate of citizen-
14 ship (Form N-560).

15 “(iii) EXCEPTIONS.—

16 “(I) LACK OF RESPONSE FROM
17 FEDERAL OR STATE AGENCY.—If the
18 Director cannot obtain a copy of a
19 document required under clause (i)
20 because of inaction by the Federal or
21 State agency from which the docu-
22 ment was requested, the Director
23 shall provide to the United States cit-
24 izen covered individual—

1 “(aa) a written statement
2 that explains what steps the Di-
3 rector took in trying to obtain
4 the document; and

5 “(bb) any documents trans-
6 mitted to the Director by the
7 Federal or State agency in re-
8 sponse to the request for the doc-
9 ument.

10 “(II) LACK OF AUTHORIZATION
11 FROM UNITED STATES CITIZEN COV-
12 ERED INDIVIDUAL.—If the Director
13 cannot obtain a copy of a document
14 required under clause (i) because the
15 United States citizen covered indi-
16 vidual does not provide the authoriza-
17 tion required to obtain the document,
18 the Director shall provide a written
19 statement to the United States citizen
20 covered individual that explains why
21 the document was not obtained.

22 “(C) PROVISION OF DOCUMENTS.—Upon
23 issuance of an identification card to a covered
24 individual under this paragraph, the Director
25 shall provide all documents obtained for the

1 United States citizen covered individual under
2 subparagraph (B).

3 “(3) OBTAINING DOCUMENTS FOR NONCITI-
4 ZENS.—

5 “(A) IN GENERAL.—With respect to a non-
6 citizen covered individual, the Director shall as-
7 sist in obtaining from the Director of the U.S.
8 Citizenship and Immigration Services—

9 “(i) proof of lawful status in the
10 United States of the noncitizen covered in-
11 dividual; and

12 “(ii) in the case of a noncitizen cov-
13 ered individual who is not admitted for
14 lawful permanent residence, an employ-
15 ment authorization document.

16 “(B) ASSISTANCE.—The assistance pro-
17 vided by the Director under subparagraph (A)
18 shall include—

19 “(i) providing the noncitizen covered
20 individual with applicable U.S. Citizenship
21 and Immigration Services forms and in-
22 structions; and

23 “(ii) assisting the noncitizen covered
24 individual in completing and submitting

1 such forms, together with any required
2 supporting documentation.

3 “(C) PROVISION OF DOCUMENTS.—Upon
4 receipt of a document for a noncitizen covered
5 individual under this paragraph, the Director
6 shall provide such document to the noncitizen
7 covered individual.

8 “(4) ASSISTANCE DEVELOPING RELEASE
9 PLAN.—At the request of a direct-release prisoner, a
10 representative of the United States Probation Sys-
11 tem shall, prior to the release of that prisoner, help
12 that prisoner develop a release plan.”.

13 **DIVISION D—POLICE REFORM** 14 **TITLE XII—PRIDE ACT**

15 **SEC. 1201. SHORT TITLE.**

16 This title may be cited as the “Police Reporting In-
17 formation, Data, and Evidence Act of 2019” or the
18 “PRIDE Act”.

19 **SEC. 1202. DEFINITIONS.**

20 In this title:

21 (1) BYRNE GRANT PROGRAM.—The term
22 “Byrne grant program” means any grant program
23 under subpart 1 of part E of title I of the Omnibus
24 Crime Control and Safe Streets Act of 1968 (34
25 U.S.C. 10151 et seq.), without regard to whether

1 the funds are characterized as being made available
2 under the Edward Byrne Memorial State and Local
3 Law Enforcement Assistance Programs, the Local
4 Government Law Enforcement Block Grants Pro-
5 gram, the Edward Byrne Memorial Justice Assist-
6 ance Grant Program, or otherwise.

7 (2) INDIAN TRIBE.—The term “Indian Tribe”
8 has the meaning given the term “Indian tribe” in
9 section 901 of title I of the Omnibus Crime Control
10 and Safe Streets Act of 1968 (34 U.S.C. 10251).

11 (3) LAW ENFORCEMENT OFFICER.—The term
12 “law enforcement officer” means any officer, agent,
13 or employee of a State, unit of local government, or
14 Indian Tribe authorized by law or by a government
15 agency to engage in or supervise the prevention, de-
16 tection, or investigation of any violation of criminal
17 law.

18 (4) STATE.—The term “State” has the mean-
19 ing given the term in section 901 of title I of the
20 Omnibus Crime Control and Safe Streets Act of
21 1968 (34 U.S.C. 10251).

22 (5) USE OF FORCE.—The term “use of force”
23 includes the use of a firearm, Taser, explosive de-
24 vice, chemical agent (such as pepper spray), baton,

1 impact projectile, blunt instrument, hand, fist, foot,
2 canine, or vehicle against an individual.

3 **SEC. 1203. USE OF FORCE REPORTING.**

4 (a) REPORTING REQUIREMENTS.—

5 (1) IN GENERAL.—Beginning in the first fiscal
6 year beginning after the date of enactment of this
7 Act and each fiscal year thereafter in which a State
8 or Indian Tribe receives funds under a Byrne grant
9 program, the State or Indian Tribe shall—

10 (A) report to the Attorney General, on a
11 quarterly basis and pursuant to guidelines es-
12 tablished by the Attorney General, information
13 regarding—

14 (i) any incident involving the shooting
15 of a civilian by a law enforcement officer
16 who is employed—

17 (I) in the case of an Indian
18 Tribe, by the Indian Tribe; or

19 (II) in the case of a State, by the
20 State or by a unit of local government
21 in the State;

22 (ii) any incident involving the shooting
23 of a law enforcement officer described in
24 clause (i) by a civilian; and

1 (iii) any incident in which use of force
 2 by or against a law enforcement officer de-
 3 scribed in clause (i) occurs, which is not
 4 reported under clause (i) or (ii);

5 (B) establish a system and a set of policies
 6 to ensure that all use of force incidents are re-
 7 ported by law enforcement officers; and

8 (C) submit to the Attorney General a plan
 9 for the collection of data required to be re-
 10 ported under this section, including any modi-
 11 fications to a previously submitted data collec-
 12 tion plan.

13 (2) REPORT INFORMATION REQUIRED.—

14 (A) IN GENERAL.—The report required
 15 under paragraph (1)(A) shall contain informa-
 16 tion that includes, at a minimum—

17 (i) the national origin, sex, race, eth-
 18 nicity, age, physical disability, mental dis-
 19 ability, English language proficiency, hous-
 20 ing status, and school status of each civil-
 21 ian against whom a law enforcement offi-
 22 cer used force;

23 (ii) the date, time, and location, in-
 24 cluding zip code, of the incident and
 25 whether the jurisdiction in which the inci-

1 dent occurred allows for the open-carry or
2 concealed-carry of a firearm;

3 (iii) whether the civilian was armed,
4 and, if so, the type of weapon the civilian
5 had;

6 (iv) the type of force used against the
7 officer, the civilian, or both, including the
8 types of weapons used;

9 (v) the reason force was used;

10 (vi) a description of any injuries sus-
11 tained as a result of the incident;

12 (vii) the number of officers involved in
13 the incident;

14 (viii) the number of civilians involved
15 in the incident; and

16 (ix) a brief description regarding the
17 circumstances surrounding the incident,
18 which shall include information on—

19 (I) the type of force used by all
20 involved persons;

21 (II) the legitimate police objective
22 necessitating the use of force;

23 (III) the resistance encountered
24 by each law enforcement officer in-
25 volved in the incident;

1 (IV) the efforts by law enforce-
 2 ment officers to—

3 (aa) de-escalate the situation
 4 in order to avoid the use of force;
 5 or

6 (bb) minimize the level of
 7 force used; and

8 (V) if applicable, the reason why
 9 efforts described in subclause (IV)
 10 were not attempted.

11 (B) INCIDENTS REPORTED UNDER DEATH
 12 IN CUSTODY REPORTING ACT.—A State is not
 13 required to include in a report under subsection
 14 (a)(1) an incident reported by the State in ac-
 15 cordance with section 20104(a)(2) of the Vio-
 16 lent Crime Control and Law Enforcement Act
 17 of 1994 (34 U.S.C. 12104(a)(2)).

18 (3) AUDIT OF USE-OF-FORCE REPORTING.—Not
 19 later than 1 year after the date of enactment of this
 20 Act, and each year thereafter, each State and Indian
 21 Tribe described in paragraph (1) shall—

22 (A) conduct an audit of the use of force in-
 23 cident reporting system required to be estab-
 24 lished under paragraph (1)(B); and

1 (B) submit a report to the Attorney Gen-
2 eral on the audit conducted under subpara-
3 graph (A).

4 (4) COMPLIANCE PROCEDURE.—Prior to sub-
5 mitting a report under paragraph (1)(A), the State
6 or Indian Tribe submitting such report shall com-
7 pare the information compiled to be reported pursu-
8 ant to clause (i) of paragraph (1)(A) to open-source
9 data records, and shall revise such report to include
10 any incident determined to be missing from the re-
11 port based on such comparison. Failure to comply
12 with the procedures described in the previous sen-
13 tence shall be considered a failure to comply with
14 the requirements of this section.

15 (b) INELIGIBILITY FOR FUNDS.—

16 (1) IN GENERAL.—For any fiscal year in which
17 a State or Indian Tribe fails to comply with this sec-
18 tion, the State or Indian Tribe, at the discretion of
19 the Attorney General, shall be subject to not more
20 than a 10-percent reduction of the funds that would
21 otherwise be allocated for that fiscal year to the
22 State or Indian Tribe under a Byrne grant program.

23 (2) REALLOCATION.—Amounts not allocated
24 under a Byrne grant program in accordance with
25 paragraph (1) to a State for failure to comply with

1 this section shall be reallocated under the Byrne
2 grant program to States that have not failed to com-
3 ply with this section.

4 (c) PUBLIC AVAILABILITY OF DATA.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of this Act, and each year
7 thereafter, the Attorney General shall publish, and
8 make available to the public, a report containing the
9 data reported to the Attorney General under this
10 section.

11 (2) PRIVACY PROTECTIONS.—Nothing in this
12 subsection shall be construed to supersede the re-
13 quirements or limitations under section 552a of title
14 5, United States Code (commonly known as the
15 “Privacy Act of 1974”).

16 (d) GUIDANCE.—Not later than 180 days after the
17 date of enactment of this Act, the Attorney General, in
18 coordination with the Director of the Federal Bureau of
19 Investigation, shall issue guidance on best practices relat-
20 ing to establishing standard data collection systems that
21 capture the information required to be reported under sub-
22 section (a)(2), which shall include standard and consistent
23 definitions for terms, including the term “use of force”
24 which is consistent with the definition of such term in sec-
25 tion 1202.

1 **SEC. 1204. COMMUNITY AND LAW ENFORCEMENT PART-**
2 **nership Grant Program.**

3 (a) GRANTS AUTHORIZED.—The Attorney General
4 may make grants to eligible law enforcement agencies to
5 be used for the activities described in subsection (c).

6 (b) ELIGIBILITY.—In order to be eligible to receive
7 a grant under this section a law enforcement agency
8 shall—

9 (1) be located in a State or Indian Tribe that
10 receives funds under a Byrne grant program;

11 (2) employ not more than 100 law enforcement
12 officers;

13 (3) demonstrate that the use of force policy for
14 law enforcement officers employed by the law en-
15 forcement agency is publicly available; and

16 (4) establish and maintain a reporting system
17 that may be used by members of the public to report
18 incidents of use of force to the law enforcement
19 agency.

20 (c) ACTIVITIES DESCRIBED.—A grant made under
21 this section may be used by a law enforcement agency
22 for—

23 (1) the cost of assisting the State or Indian
24 Tribe in which the law enforcement agency is located
25 in complying with the reporting requirements de-
26 scribed in section 1203;

1 (2) the cost of establishing necessary systems
2 required to investigate and report incidents as re-
3 quired under subsection (b)(4);

4 (3) public awareness campaigns designed to
5 gain information from the public on use of force by
6 or against law enforcement officers, including shoot-
7 ings, which may include tip lines, hotlines, and pub-
8 lic service announcements; and

9 (4) use of force training for law enforcement
10 agencies and personnel, including training on de-es-
11 calation, implicit bias, crisis intervention techniques,
12 and adolescent development.

13 **SEC. 1205. COMPLIANCE WITH REPORTING REQUIRE-**
14 **MENTS.**

15 (a) IN GENERAL.—Not later than 1 year after the
16 date of enactment of this Act, and each year thereafter,
17 the Attorney General shall conduct an audit and review
18 of the information provided under this title to determine
19 whether each State or Indian Tribe described in section
20 903(a)(1) is in compliance with the requirements of this
21 title.

22 (b) CONSISTENCY IN DATA REPORTING.—

23 (1) IN GENERAL.—Any data reported under
24 this title shall be collected and reported in a manner
25 consistent with existing programs of the Department

1 of Justice that collect data on law enforcement offi-
 2 cer encounters with civilians.

3 (2) GUIDELINES.—The Attorney General
 4 shall—

5 (A) issue guidelines on the reporting re-
 6 quirement under section 1203; and

7 (B) seek public comment before finalizing
 8 the guidelines required under subparagraph
 9 (A).

10 **SEC. 1206. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated to the Attor-
 12 ney General such sums as are necessary to carry out this
 13 title.

14 **TITLE XIII—END RACIAL AND**
 15 **RELIGIOUS PROFILING ACT**

16 **SEC. 1301. SHORT TITLE.**

17 This title may be cited as the “End Racial and Reli-
 18 gious Profiling Act of 2019” or “ERRPA”.

19 **SEC. 1302. DEFINITIONS.**

20 In this title:

21 (1) COVERED PROGRAM.—The term “covered
 22 program” means any program or activity funded in
 23 whole or in part with funds made available under—

24 (A) the Edward Byrne Memorial Justice
 25 Assistance Grant Program under part E of title

1 I of the Omnibus Crime Control and Safe
2 Streets Act of 1968 (34 U.S.C. 10151 et seq.);
3 and

4 (B) the “Cops on the Beat” program
5 under part Q of title I of the Omnibus Crime
6 Control and Safe Streets Act of 1968 (34
7 U.S.C. 10381 et seq.), except that no program,
8 project, or other activity specified in section
9 1701(b)(13) of such part shall be a covered
10 program under this paragraph.

11 (2) GOVERNMENTAL BODY.—The term “govern-
12 mental body” means any department, agency, special
13 purpose district, or other instrumentality of Federal,
14 State, local, or Indian Tribal government.

15 (3) HIT RATE.—The term “hit rate” means the
16 percentage of stops and searches in which a law en-
17 forcement officer finds drugs, a gun, or something
18 else that leads to an arrest. The hit rate is cal-
19 culated by dividing the total number of searches by
20 the number of searches that yield contraband. The
21 hit rate is complementary to the rate of false stops.

22 (4) INDIAN TRIBE.—The term “Indian Tribe”
23 has the meaning given the term “Indian tribe” in
24 section 102 of the Federally Recognized Indian
25 Tribe List Act of 1994 (25 U.S.C. 5130).

1 (5) LAW ENFORCEMENT AGENCY.—The term
2 “law enforcement agency” means any Federal,
3 State, local, or Indian Tribal public agency engaged
4 in the prevention, detection, or investigation of viola-
5 tions of criminal, immigration, or customs laws.

6 (6) LAW ENFORCEMENT AGENT.—The term
7 “law enforcement agent” means any Federal, State,
8 local, or Indian Tribal official responsible for enforce-
9 ing criminal, immigration, or customs laws, includ-
10 ing police officers and other agents of a law enforce-
11 ment agency.

12 (7) RACIAL PROFILING.—The term “racial
13 profiling” means the practice of a law enforcement
14 agent or agency relying, to any degree, on actual or
15 perceived race, ethnicity, national origin, religion,
16 gender, gender identity, or sexual orientation in se-
17 lecting which individual to subject to routine or
18 spontaneous investigatory activities or in deciding
19 upon the scope and substance of law enforcement ac-
20 tivity following the initial investigatory procedure,
21 except when there is trustworthy information, rel-
22 evant to the locality and timeframe, that links a per-
23 son with a particular characteristic described in this
24 paragraph to an identified criminal incident or
25 scheme.

1 (8) ROUTINE OR SPONTANEOUS INVESTIGATORY
2 ACTIVITIES.—The term “routine or spontaneous in-
3 vestigatory activities” means the following activities
4 by a law enforcement agent:

5 (A) Interviews.

6 (B) Traffic stops.

7 (C) Pedestrian stops.

8 (D) Frisks and other types of body
9 searches.

10 (E) Consensual or nonconsensual searches
11 of the persons, property, or possessions (includ-
12 ing vehicles) of individuals using any form of
13 public or private transportation, including mo-
14 torists and pedestrians.

15 (F) Data collection and analysis, assess-
16 ments, and predicated investigations.

17 (G) Inspections and interviews of entrants
18 into the United States that are more extensive
19 than those customarily carried out.

20 (H) Immigration-related workplace inves-
21 tigations.

22 (I) Such other types of law enforcement
23 encounters compiled for or by the Federal Bu-
24 reau of Investigation or the Department of Jus-
25 tice Bureau of Justice Statistics.

1 (9) REASONABLE REQUEST.—The term “rea-
2 sonable request” means all requests for information,
3 except for those that—

4 (A) are immaterial to the investigation;

5 (B) would result in the unnecessary disclo-
6 sure of personal information; or

7 (C) would place a severe burden on the re-
8 sources of the law enforcement agency given its
9 size.

10 (10) STATE.—The term “State” means each of
11 the 50 States, the District of Columbia, the Com-
12 monwealth of Puerto Rico, and any other territory
13 or possession of the United States.

14 (11) UNIT OF LOCAL GOVERNMENT.—The term
15 “unit of local government” means—

16 (A) any city, county, township, town, bor-
17 ough, parish, village, or other general purpose
18 political subdivision of a State;

19 (B) any law enforcement district or judicial
20 enforcement district that—

21 (i) is established under applicable
22 State law; and

23 (ii) has the authority to, in a manner
24 independent of other State entities, estab-
25 lish a budget and impose taxes; or

1 (C) any Indian Tribe that performs law
2 enforcement functions, as determined by the
3 Secretary of the Interior.

4 **Subtitle A—Prohibition of Racial**
5 **Profiling**

6 **SEC. 1311. PROHIBITION.**

7 No law enforcement agent or law enforcement agency
8 shall engage in racial profiling.

9 **SEC. 1312. ENFORCEMENT.**

10 (a) REMEDY.—The United States, or an individual
11 injured by racial profiling, may enforce this subtitle in a
12 civil action for declaratory or injunctive relief, filed either
13 in a State court of general jurisdiction or in a district
14 court of the United States.

15 (b) PARTIES.—In any action brought under this sub-
16 title, relief may be obtained against—

17 (1) any governmental body that employed any
18 law enforcement agent who engaged in racial
19 profiling;

20 (2) any agent of such body who engaged in ra-
21 cial profiling; and

22 (3) any person with supervisory authority over
23 such agent.

24 (c) NATURE OF PROOF.—Proof that the routine or
25 spontaneous investigatory activities of law enforcement

1 agents in a jurisdiction have had a disparate impact on
2 individuals with a particular characteristic described in
3 section 1302(7) shall constitute prima facie evidence of a
4 violation of this subtitle.

5 (d) ATTORNEY'S FEES.—In any action or proceeding
6 to enforce this subtitle against any governmental body, the
7 court may allow a prevailing plaintiff, other than the
8 United States, reasonable attorney's fees as part of the
9 costs, and may include expert fees as part of the attorney's
10 fee.

11 **Subtitle B—Programs To Eliminate**
12 **Racial Profiling By Federal Law**
13 **Enforcement Agencies**

14 **SEC. 1321. POLICIES TO ELIMINATE RACIAL PROFILING.**

15 (a) IN GENERAL.—Federal law enforcement agencies
16 shall—

17 (1) maintain adequate policies and procedures
18 designed to eliminate racial profiling; and

19 (2) cease existing practices that permit racial
20 profiling.

21 (b) POLICIES.—The policies and procedures de-
22 scribed in subsection (a)(1) shall include—

23 (1) a prohibition on racial profiling;

24 (2) training on racial profiling issues as part of
25 Federal law enforcement training;

1 (3) the collection of data in accordance with the
 2 regulations issued by the Attorney General under
 3 section 1341;

4 (4) procedures for receiving, investigating, and
 5 responding meaningfully to complaints alleging ra-
 6 cial profiling by law enforcement agents; and

7 (5) any other policies and procedures the Attor-
 8 ney General determines to be necessary to eliminate
 9 racial profiling by Federal law enforcement agencies.

10 **Subtitle C—Programs To Eliminate**
 11 **Racial Profiling By State, Local,**
 12 **and Indian Tribal Law Enforce-**
 13 **ment Agencies**

14 **SEC. 1331. POLICIES REQUIRED FOR GRANTS.**

15 (a) IN GENERAL.—An application by a State, a unit
 16 of local government, or a State, local, or Indian Tribal
 17 law enforcement agency for funding under a covered pro-
 18 gram shall include a certification that such State, unit of
 19 local government, or law enforcement agency, and any law
 20 enforcement agency to which it will distribute funds—

21 (1) maintains adequate policies and procedures
 22 designed to eliminate racial profiling; and

23 (2) has eliminated any existing practices that
 24 permit or encourage racial profiling.

1 (b) POLICIES.—The policies and procedures de-
 2 scribed in subsection (a)(1) shall include—

3 (1) a prohibition on racial profiling;

4 (2) training on racial profiling issues as part of
 5 law enforcement training;

6 (3) the collection of data in accordance with the
 7 regulations issued by the Attorney General under
 8 section 1341; and

9 (4) participation in an administrative complaint
 10 procedure or independent audit program that meets
 11 the requirements of section 1332.

12 (c) EFFECTIVE DATE.—This section shall take effect
 13 12 months after the date of enactment of this Act.

14 **SEC. 1332. INVOLVEMENT OF ATTORNEY GENERAL.**

15 (a) REGULATIONS.—

16 (1) IN GENERAL.—Not later than 6 months
 17 after the date of enactment of this Act and in con-
 18 sultation with stakeholders, including Federal, State,
 19 Tribal, and local law enforcement agencies and com-
 20 munity, professional, research, and civil rights orga-
 21 nizations, the Attorney General shall issue regula-
 22 tions for the operation of administrative complaint
 23 procedures and independent audit programs to en-
 24 sure that such programs and procedures provide an

1 appropriate response to allegations of racial profiling
2 by law enforcement agents or agencies.

3 (2) GUIDELINES.—The regulations issued
4 under paragraph (1) shall contain guidelines that
5 ensure the fairness, effectiveness, and independence
6 of the administrative complaint procedures and inde-
7 pendent auditor programs.

8 (b) NONCOMPLIANCE.—If the Attorney General de-
9 termines that the recipient of a grant from any covered
10 program is not in compliance with the requirements of sec-
11 tion 1331 or the regulations issued under subsection (a),
12 the Attorney General shall withhold, in whole or in part
13 (at the discretion of the Attorney General), funds for one
14 or more grants to the recipient under the covered pro-
15 gram, until the recipient establishes compliance.

16 (c) PRIVATE PARTIES.—The Attorney General shall
17 provide notice and an opportunity for private parties to
18 present evidence to the Attorney General that a recipient
19 of a grant from any covered program is not in compliance
20 with the requirements of this subtitle.

21 **SEC. 1333. DATA COLLECTION DEMONSTRATION PROJECT.**

22 (a) COMPETITIVE AWARDS.—

23 (1) IN GENERAL.—The Attorney General may,
24 through competitive grants or contracts, carry out a
25 2-year demonstration project for the purpose of de-

1 veloping and implementing data collection programs
2 on the hit rates for stops and searches by law en-
3 forcement agencies. The data collected shall be
4 disaggregated by race, ethnicity, national origin,
5 gender, and religion.

6 (2) NUMBER OF GRANTS.—The Attorney Gen-
7 eral shall provide not more than 5 grants or con-
8 tracts under this section.

9 (3) ELIGIBLE GRANTEEES.—Grants or contracts
10 under this section shall be awarded to law enforce-
11 ment agencies that serve communities where there is
12 a significant concentration of racial or ethnic minori-
13 ties and that are not already collecting data volun-
14 tarily.

15 (b) REQUIRED ACTIVITIES.—Activities carried out
16 with a grant under this section shall include—

17 (1) developing a data collection tool and report-
18 ing the compiled data to the Attorney General; and

19 (2) training of law enforcement personnel on
20 data collection, particularly for data collection on hit
21 rates for stops and searches.

22 (c) EVALUATION.—Not later than 3 years after the
23 date of enactment of this Act, the Attorney General shall
24 enter into a contract with an institution of higher edu-
25 cation (as defined in section 101 of the Higher Education

1 Act of 1965 (20 U.S.C. 1001)) to analyze the data col-
2 lected by each of the grantees funded under this section.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out activities
5 under this section—

6 (1) \$5,000,000, over a 2-year period, to carry
7 out the demonstration program under subsection
8 (a); and

9 (2) \$500,000 to carry out the evaluation under
10 subsection (c).

11 **SEC. 1334. BEST PRACTICES DEVELOPMENT GRANTS.**

12 (a) GRANT AUTHORIZATION.—The Attorney General,
13 through the Bureau of Justice Assistance, may make
14 grants to States, local law enforcement agencies, and units
15 of local government to develop and implement best prac-
16 tice devices and systems to eliminate racial profiling.

17 (b) USE OF FUNDS.—The funds provided under sub-
18 section (a) shall be used for programs that include the
19 following purposes:

20 (1) The development and implementation of
21 training to prevent racial profiling and to encourage
22 more respectful interaction with the public.

23 (2) The acquisition and use of technology to fa-
24 cilitate the accurate collection and analysis of data.

1 (3) The development and acquisition of feed-
 2 back systems and technologies that identify officers
 3 or units of officers engaged in, or at risk of engag-
 4 ing in, racial profiling or other misconduct.

5 (4) The establishment and maintenance of an
 6 administrative complaint procedure or independent
 7 auditor program.

8 (c) **EQUITABLE DISTRIBUTION.**—The Attorney Gen-
 9 eral shall ensure that grants under this section are award-
 10 ed in a manner that reserves an equitable share of funding
 11 for small and rural law enforcement agencies.

12 (d) **APPLICATION.**—Each State, local law enforce-
 13 ment agency, or unit of local government desiring a grant
 14 under this section shall submit an application to the Attor-
 15 ney General at such time, in such manner, and accom-
 16 panied by such information as the Attorney General may
 17 reasonably require.

18 **SEC. 1335. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated such sums
 20 as are necessary to carry out this subtitle.

21 **Subtitle D—Data Collection**

22 **SEC. 1341. ATTORNEY GENERAL TO ISSUE REGULATIONS.**

23 (a) **REGULATIONS.**—Not later than 6 months after
 24 the date of enactment of this Act, the Attorney General,
 25 in consultation with stakeholders, including Federal,

1 State, and local law enforcement agencies and community,
2 professional, research, and civil rights organizations, shall
3 issue regulations for the collection and compilation of data
4 under sections 1321 and 1331.

5 (b) REQUIREMENTS.—The regulations issued under
6 subsection (a) shall—

7 (1) provide for the collection of data on all rou-
8 tine or spontaneous investigatory activities;

9 (2) provide that the data collected shall—

10 (A) be collected by race, ethnicity, national
11 origin, gender, and religion, as perceived by the
12 law enforcement officer;

13 (B) include the date, time, and location of
14 such investigatory activities;

15 (C) include detail sufficient to permit an
16 analysis of whether a law enforcement agency is
17 engaging in racial profiling; and

18 (D) not include personally identifiable in-
19 formation;

20 (3) provide that a standardized form shall be
21 made available to law enforcement agencies for the
22 submission of collected data to the Department of
23 Justice;

24 (4) provide that law enforcement agencies shall
25 compile data on the standardized form made avail-

1 able under paragraph (3), and submit the form to
2 the Civil Rights Division and the Department of
3 Justice Bureau of Justice Statistics;

4 (5) provide that law enforcement agencies shall
5 maintain all data collected under this title for not
6 less than 4 years;

7 (6) include guidelines for setting comparative
8 benchmarks, consistent with best practices, against
9 which collected data shall be measured;

10 (7) provide that the Department of Justice Bu-
11 reau of Justice Statistics shall—

12 (A) analyze the data for any statistically
13 significant disparities, including—

14 (i) disparities in the percentage of
15 drivers or pedestrians stopped relative to
16 the proportion of the population passing
17 through the neighborhood;

18 (ii) disparities in the hit rate; and

19 (iii) disparities in the frequency of
20 searches performed on racial or ethnic mi-
21 nority drivers and the frequency of
22 searches performed on nonminority drivers;
23 and

1 (B) not later than 3 years after the date
2 of enactment of this Act, and annually there-
3 after—

4 (i) prepare a report regarding the
5 findings of the analysis conducted under
6 subparagraph (A);

7 (ii) provide such report to Congress;
8 and

9 (iii) make such report available to the
10 public, including on a website of the De-
11 partment of Justice; and

12 (8) protect the privacy of individuals whose
13 data is collected by—

14 (A) limiting the use of the data collected
15 under this title to the purposes set forth in this
16 title;

17 (B) except as otherwise provided in this
18 title, limiting access to the data collected under
19 this title to those Federal, State, local, or Trib-
20 al employees or agents who require such access
21 in order to fulfill the purposes for the data set
22 forth in this title;

23 (C) requiring contractors or other non-
24 governmental agents who are permitted access
25 to the data collected under this title to sign use

1 agreements incorporating the use and disclosure
2 restrictions set forth in subparagraph (A); and
3 (D) requiring the maintenance of adequate
4 security measures to prevent unauthorized ac-
5 cess to the data collected under this title.

6 **SEC. 1342. PUBLICATION OF DATA.**

7 The Department of Justice Bureau of Justice Statis-
8 tics shall provide to Congress and make available to the
9 public, together with each annual report described in sec-
10 tion 1341, the data collected pursuant to this title, exclud-
11 ing any personally identifiable information described in
12 section 1343.

13 **SEC. 1343. LIMITATIONS ON PUBLICATION OF DATA.**

14 The name or identifying information of a law enforce-
15 ment officer, complainant, or any other individual involved
16 in any activity for which data is collected and compiled
17 under this title shall not be—

18 (1) released to the public;

19 (2) disclosed to any person, except for—

20 (A) such disclosures as are necessary to
21 comply with this title;

22 (B) disclosures of information regarding a
23 particular person to that person; or

24 (C) disclosures pursuant to litigation; or

1 (3) subject to disclosure under section 552 of
2 title 5, United States Code (commonly known as the
3 Freedom of Information Act), except for disclosures
4 of information regarding a particular person to that
5 person.

6 **Subtitle E—Department of Justice**
7 **Regulations and Reports on Ra-**
8 **cial Profiling in the United**
9 **States**

10 **SEC. 1351. ATTORNEY GENERAL TO ISSUE REGULATIONS**
11 **AND REPORTS.**

12 (a) REGULATIONS.—In addition to the regulations re-
13 quired under sections 1333 and 1341, the Attorney Gen-
14 eral shall issue such other regulations as the Attorney
15 General determines are necessary to implement this title.

16 (b) REPORTS.—

17 (1) IN GENERAL.—Not later than 2 years after
18 the date of enactment of this Act, and annually
19 thereafter, the Attorney General shall submit to
20 Congress a report on racial profiling by law enforce-
21 ment agencies.

22 (2) SCOPE.—Each report submitted under
23 paragraph (1) shall include—

24 (A) a summary of data collected under sec-
25 tions 1321(b)(3) and 1331(b)(3) and from any

other reliable source of information regarding racial profiling in the United States;

(B) a discussion of the findings in the most recent report prepared by the Department of Justice Bureau of Justice Statistics under section 1341(b)(7);

(C) the status of the adoption and implementation of policies and procedures by Federal law enforcement agencies under section 1321 and by the State and local law enforcement agencies under sections 1331 and 1332; and

(D) a description of any other policies and procedures that the Attorney General believes would facilitate the elimination of racial profiling.

Subtitle F—Miscellaneous Provisions

SEC. 1361. SEVERABILITY.

If any provision of this title, or the application of such a provision to any person or circumstance, is held to be unconstitutional, the remainder of this title and the application of the remaining provisions of this title to any person or circumstance shall not be affected thereby.

SEC. 1362. SAVINGS CLAUSE.

Nothing in this title shall be construed—

1 (1) to limit legal or administrative remedies
2 under section 1979 of the Revised Statutes of the
3 United States (42 U.S.C. 1983), section 210401 of
4 the Violent Crime Control and Law Enforcement
5 Act of 1994 (34 U.S.C. 12601), title I of the the
6 Omnibus Crime Control and Safe Streets Act of
7 1968 (34 U.S.C. 10101 et seq.), or title VI of the
8 Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

9 (2) to affect any Federal, State, or Tribal law
10 that applies to an Indian Tribe because of the polit-
11 ical status of the tribe; or

12 (3) to waive the sovereign immunity of an In-
13 dian Tribe without the consent of the tribe.

○