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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To reform United States drug policy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. WATSON COLEMAN introduced the following bill; which was referred to
the Committee on _____

A BILL

To reform United States drug policy, 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.**

4 This Act may be cited as the “Drug Policy Reform
5 Act of 2021” or as the “DPR Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) For most of the past century the United
9 States has adopted increasingly punitive policies to-
10 ward the possession, use, and distribution of drugs.

1 Particularly in the last 50 years, the United States
2 has built a massive regime to enforce those policies.

3 (2) Congress and State legislatures have adopt-
4 ed increasingly harsh sentencing schemes such as
5 mandatory minimums, established far-reaching and
6 oppressive civil sanctions and collateral con-
7 sequences, approved policies weakening the Fourth
8 Amendment for drug searches and seizures, and fos-
9 tered incentives for aggressive and militarized polic-
10 ing in the alleged pursuit of drugs.

11 (3) Every year, there are more than 1.4 million
12 arrests in the United States for drug-related of-
13 fenses. In over 85 percent of those arrests, drug pos-
14 session was the most serious offense. Drug arrests
15 disproportionately impact people of color and more
16 commonly occur in historically overpoliced, low-in-
17 come communities. A criminal record, even for an
18 arrest that did not result in a conviction, has a pro-
19 found impact on individuals, often interrupting em-
20 ployment, housing, family relationships, child cus-
21 tody, and education.

22 (4) A health-based approach to drug use and
23 overdose is more effective, humane and cost-effective
24 than criminal punishments. Subjecting people to
25 criminal penalties, stigma, and other lasting collat-

1 eral consequences because they use drugs is expen-
2 sive, ruins lives, and can make access to treatment
3 and recovery more difficult.

4 (5) Despite high numbers of arrests and incar-
5 ceration in the United States for drug possession,
6 the number and rate of drug-involved overdose
7 deaths has skyrocketed for over 20 years and con-
8 tinues at epidemic levels. In 2019, 70,630 people
9 died by drug overdose in the United States.

10 (6) Harm reduction services and voluntary, on-
11 demand access to evidence-based substance use dis-
12 order treatment have proven highly effective in re-
13 ducing overdose and the spread of communicable
14 diseases like HIV and Hepatitis C, preventing drug-
15 related injury, and improving health outcomes for
16 people who use drugs. These services should be
17 available on demand to anyone who requests it.

18 (7) Far too many people who desire treatment
19 face challenges that prevent them from accessing the
20 services they want, including cost barriers, lack of
21 providers, and long wait-lists. On-demand access to
22 evidence-based treatment saves lives, reduces crime,
23 and saves money. Barriers to treatment should be
24 removed or minimized.

1 (8) Criminalizing drug use and possession re-
2 duces the amount of resources available for harm re-
3 duction and treatment services and deters people
4 from accessing available services due to fear of ar-
5 rest.

6 (9) Punitive policies have achieved no reduction
7 in supplies or prices, but instead have created un-
8 necessarily risky and harmful conditions for people
9 who use drugs.

10 (10) Punitive policies have led to militarized
11 tactics that thwart the spirit of the constitution and
12 have led to the deaths of countless Black and Brown
13 people. Additionally, the drug war apparatus has
14 cost the Federal Government hundreds of billions of
15 dollars in direct enforcement and incarceration costs,
16 and collateral impacts on the lives of those caught
17 in its path.

18 (11) While drug decriminalization cannot fully
19 repair our broken and oppressive criminal legal sys-
20 tem or the harms of an unregulated drug market,
21 shifting from absolute prohibition to drug decrimi-
22 nalization helps restore individual liberty, protect
23 against some police abuses, better assist those in
24 need, and save tax dollars.

1 (12) This concept is neither new nor radical.
2 Other nations, including Portugal, have successfully
3 decriminalized personal use quantities of drugs and
4 achieved meaningful improvements in treating prob-
5 lematic drug use and reducing the harms of policing
6 drugs.

7 (13) In June 2021, the United States will mark
8 the 50th anniversary of Congress' enactment of the
9 Controlled Substances Act (21 U.S.C. 801 et seq.),
10 which authorized and launched the harsh drug war
11 policies sought by the Nixon Administration. In this
12 moment, Congress must recognize the failed experi-
13 ment in prohibition and move the country in a new
14 direction.

15 **SEC. 3. SENSE OF CONGRESS.**

16 It is the sense of Congress that the United States
17 should—

18 (1) refocus its strategies for addressing sub-
19 stance use disorder and dangerous drug use from
20 strategies focused on controlling and punishing un-
21 authorized drug possession to a system that is
22 health focused, evidence-based, and respectful of
23 self-determination;

24 (2) invest in harm-reduction services and sub-
25 stance use disorder treatment to help prevent over-

1 dose and other health risks, and strengthen connec-
2 tions to services that provide foundational social and
3 economic support; and

4 (3) pursue international treaties that expand
5 flexibility for signatories to enact non-punitive strat-
6 egies to address the health and safety of people who
7 use drugs, including the decriminalization of the
8 possession, purchase, or cultivation of personal use
9 quantities of drugs.

10 **SEC. 4. SHIFT REGULATORY AUTHORITY.**

11 (a) **AUTHORITY AND CRITERIA FOR CLASSIFICATION**
12 **OF SUBSTANCES.**—Section 201 of the Controlled Sub-
13 stances Act (21 U.S.C. 811) is amended by striking “At-
14 torney General” and inserting “Secretary of Health and
15 Human Services” each place it appears.

16 (b) **REMOVAL OF EXEMPTION OF CERTAIN DRUGS.**—
17 Section 204 of the Controlled Substances Act (21 U.S.C.
18 814) is amended by striking “Attorney General” and in-
19 serting “Secretary of Health and Human Services” each
20 place it appears.

21 (c) **TRANSFER PLAN.**—

22 (1) **REPORT TO CONGRESS.**—Not later than
23 180 days after the date of the enactment of this Act,
24 the Attorney General and the Secretary of Health
25 and Human Services shall jointly develop and sub-

1 mit to the Congress a plan for transferring informa-
2 tion necessary to effect the transfer of classification
3 responsibility required under this section.

4 (2) REPORT TO GENERAL SERVICES ADMINIS-
5 TRATION.—Not later than 180 days after the date
6 of the enactment of this Act, the Attorney General
7 shall transmit to the Administrator of the General
8 Services Administration a report that specifies the
9 property that is specific to the functions to be trans-
10 ferred to the Secretary of Health and Human Serv-
11 ices pursuant to this section.

12 **SEC. 5. ELIMINATE CRIMINAL PENALTIES FOR PERSONAL**
13 **USE POSSESSION.**

14 (a) IN GENERAL.—Section 404 of the Controlled
15 Substances Act (21 U.S.C. 844) is amended by adding at
16 the end the following new subsection:

17 “(b) PERSONAL USE EXCEPTION.—(1) A person pos-
18 sessing or using a controlled substance in an amount no
19 greater than the benchmark amount (determined by the
20 Commission on Substance Use, Health, and Safety estab-
21 lished by the Drug Policy Reform Act of 2021) shall not
22 be subject to a criminal or civil penalty under this section.

23 “(2) The suspected possession or use of a controlled
24 substance in an amount no greater than the benchmark
25 amount (determined by the Commission on Substance

1 Use, Health, and Safety established by the Drug Policy
2 Reform Act of 2021) shall not constitute a basis for de-
3 taining, searching, arresting, questioning or surveilling
4 any person, or seizing property including, controlled sub-
5 stances and any items used for the ingestion, consump-
6 tion, preparation, packaging, or storage of a controlled
7 substance.

8 “(3) The suspected possession or use of a controlled
9 substance in an amount no greater than the benchmark
10 amount shall not constitute a basis for any referral to any
11 immigration enforcement agency, U.S. Citizenship and
12 Immigration Services, U.S. Immigration and Customs En-
13 forcement, and U.S. Customs and Border Protection.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall take effect on the date that is 180
16 days after the date of the enactment of this Act.

17 (c) REPEAL.—Section 405 of the Controlled Sub-
18 stances Act (21 U.S.C. 844a) is repealed.

19 **SEC. 6. COMMISSION ON SUBSTANCE USE, HEALTH, AND**
20 **SAFETY.**

21 (a) ESTABLISHMENT.—Not later than 180 days after
22 the date of the enactment of this Act, the Secretary of
23 Health and Human Services shall establish a “Commis-
24 sion on Substance Use, Health, and Safety” (hereinafter
25 known as the “Commission”).

1 (b) PURPOSE.—

2 (1) BENCHMARKS.—

3 (A) IN GENERAL.—The Commission under
4 paragraph (1) shall determine a benchmark
5 amount for a controlled substance. The Com-
6 mission shall consist of people with current or
7 past substance use needs and qualified persons
8 in the fields of general and behavioral
9 healthcare, harm reduction, and substance use
10 disorder treatment. Priority shall be given to
11 people who have lived experience with substance
12 use needs the quantity of drug commonly pos-
13 sessed by an individual benchmark personal use
14 supply, for controlled substances.

15 (B) DUTIES.—The Commission shall con-
16 sider the following in developing the bench-
17 marks under subparagraph (A)—

18 (i) common patterns of use by typical
19 consumers of the drug;

20 (ii) differences in commonly possessed
21 quantities resulting from factors relating
22 to geography, income, employment, and
23 other related demographic characteristics;
24 and

1 (iii) differences in commonly pos-
2 sessed quantities resulting from varying
3 modes of use.

4 (2) REDUCED CRIMINALIZATION.—Benchmarks
5 advised by the Commission under subparagraph (A)
6 shall be developed consistent with the intent of this
7 Act to reduce criminalization of personal drug use.

8 (c) MEMBERSHIP.—The Commission under sub-
9 section (a) shall be composed of at least 18 members and
10 shall include:

11 (1) VOTING MEMBERS.—

12 (A) Four individuals who have either used
13 controlled substances or are using controlled
14 substances on the date of the enactment of this
15 Act.

16 (B) Two members of communities that
17 have been disproportionately impacted by ar-
18 rests, prosecution or sentencing for drug of-
19 fenses.

20 (C) One peer support specialist.

21 (D) A harm reduction service provider.

22 (E) A person specializing in housing serv-
23 ices for people with substance use needs or
24 mental health needs.

1 (F) A physician specializing in addiction
2 medicine and with expertise in the treatment of
3 opioid use disorders with methadone or
4 buprenorphine.

5 (G) A provider of evidence-based substance
6 use disorder treatment.

7 (H) A provider of evidence-based services
8 for people with co-occurring mental health and
9 substance use needs.

10 (I) A licensed clinical social worker with
11 expertise in providing intensive case manage-
12 ment to people with substance use needs.

13 (J) A person who works for a nonprofit or-
14 ganization that advocates for persons with sub-
15 stance use needs.

16 (K) An expert on legal reform who is not
17 a law enforcement officer.

18 (L) An academic researcher specializing in
19 drug use or drug policy.

20 (M) A person who represents the needs of
21 and concerns of Indigenous communities.

22 (2) NON-VOTING MEMBER.—A designee of a
23 State Health Agency shall serve on the Commission
24 as a non-voting member.

1 (d) TERMS.—A member of the Commission shall
2 serve for a term of three years and may be reappointed
3 by the Secretary for additional terms thereafter.

4 (e) MEETINGS.—Not later than 180 days after the
5 date of the enactment of this Act, and at minimum four
6 times per calendar year thereafter, the Commission shall
7 convene to establish and review the benchmarks estab-
8 lished under paragraph (2) and make any necessary
9 amendments or further guidance with respect to the re-
10 sponsibilities of the Commission.

11 (f) REPORTING.—

12 (1) PERSONAL USE GUIDELINES.—Not later
13 than 18 months after the date of the enactment of
14 this Act, the Secretary shall publish online on the
15 internet website of the Department of Health and
16 Human Services a report on personal use guidelines,
17 including—

18 (A) guidelines for the benchmark personal
19 use supply for each drug; and

20 (B) recommendations for preventing the
21 prosecution of individuals possessing, distrib-
22 uting, or dispensing personal use quantities of
23 each drug for purposes of subsistence distribu-
24 tion.

1 (2) REPORT TO DEPARTMENT OF JUSTICE.—
2 Not later than one year after the date of the enact-
3 ment of this Act, the report on personal use guide-
4 lines published under paragraph (1) shall be trans-
5 mitted to the Attorney General.

6 (3) REPORT TO CONGRESS.—Not later than one
7 year after the date of the enactment of this Act the
8 report on personal use guidelines published under
9 paragraph (1) shall be transmitted to the Attorney
10 General.

11 (4) REPORT TO THE FEDERAL COURTS.—Not
12 later than one year after the date of the enactment
13 of this Act, the report on personal use guidelines
14 published under paragraph (1) shall be transmitted
15 to each Federal district court.

16 (5) REPORT TO THE CHIEF LAW ENFORCEMENT
17 OFFICER OF EACH STATE.—Not later than one year
18 after the date of the enactment of this Act, the re-
19 port on personal use guidelines published under
20 paragraph (1) shall be transmitted to each chief law
21 enforcement officer of each State.

22 (g) DEFINITIONS.—In this subsection:

23 (1) BENCHMARK PERSONAL USE SUPPLY.—The
24 term “benchmark personal use supply” means the
25 amount of a drug commonly possessed for consump-

1 tion by an individual for any therapeutic, medicinal,
2 recreational purpose.

3 (2) CONTROLLED SUBSTANCE.—The term
4 “controlled substance” shall have the same meaning
5 given such term in section 102 of the Controlled
6 Substances Act (21 U.S.C. 802).

7 (3) SUBSISTENCE DISTRIBUTION.—The term
8 “subsistence distribution” means the unlawful dis-
9 tribution or dispensing of a drug by a person in
10 quantities consistent with supporting that person’s
11 drug addiction or ensuring basic food and shelter
12 necessary to support life, and possession of no more
13 than a benchmark personal use supply.

14 (4) HARM REDUCTION SERVICES.—The term
15 “harm reduction services” means services and poli-
16 cies that lessen the adverse consequences of drug use
17 and protect public health, including but not limited
18 to overdose prevention education, access to naloxone
19 hydrochloride and sterile syringes, and stimulant-
20 specific drug education and outreach.

21 **SEC. 7. EXPUNGEMENT AND SEALING OF RECORDS.**

22 (a) AUTOMATIC SEALING CERTAIN RECORDS.—Not
23 later than one year after the date of the enactment of this
24 Act, each Federal district court shall conduct a com-
25 prehensive review to identify individuals eligible to have

1 a record of conviction or adjudication of juvenile delin-
2 quency that may be sealed pursuant to this Act and shall
3 issue an order expunging each conviction or adjudication
4 for a Federal offense entered by each Federal court in the
5 district for a conviction of possession of a controlled sub-
6 stance in an amount equal to or less than the benchmark
7 amount established under this Act.

8 (b) ARRESTS.—The Federal court shall issue an
9 order expunging any arrest by a Federal law enforcement
10 agency with respect to an expunged conviction or adjudica-
11 tion of juvenile delinquency under subsection (a).

12 (c) EFFECT OF EXPUNGEMENT.—An individual who
13 has had an arrest, conviction, or adjudication of juvenile
14 delinquency expunged under this section—

15 (1) may treat the arrest, conviction, or adju-
16 dication as if it never occurred; and

17 (2) shall be immune from any civil or criminal
18 penalties related to perjury, false swearing, or false
19 statements, for a failure to disclose such arrest, con-
20 viction, or adjudication.

21 (d) NOTIFICATION.—To the extent practicable, each
22 Federal district court shall notify each individual whose
23 arrest, conviction, or adjudication of juvenile delinquency
24 has been expunged under this section and the effect of
25 such expungement.

1 (e) RIGHT TO PETITION FOR SEALING.—After the
2 date of the enactment of this Act, an individual with a
3 conviction or adjudication of juvenile delinquency for an
4 eligible offense not sealed pursuant to subsection (a) may
5 file a motion for expungement. If the expungement of such
6 a conviction or adjudication of juvenile delinquency is re-
7 quired pursuant to this Act, the court shall expunge the
8 conviction or adjudication, and any associated arrests. If
9 the individual is indigent, counsel shall be appointed to
10 represent the individual in any proceedings under this sub-
11 section.

12 (f) FEES PROHIBITED.—No fee shall be imposed for
13 filing a petition or any proceeding provided for under this
14 section.

15 (g) EXPUNGE DEFINED.—In this subsection, the
16 term “expunge” means, with respect to an arrest, a con-
17 viction, or adjudication of juvenile delinquency, the re-
18 moval of the record of such arrest, conviction, or adjudica-
19 tion from each official index and public record.

20 **SEC. 8. RELIEF FOR INDIVIDUALS INCARCERATED OR ON**
21 **SUPERVISION FOR CERTAIN DRUG CONVIC-**
22 **TIONS.**

23 (a) IN GENERAL.—Not later than 30 days after the
24 date of the enactment of this Act, an individual under a
25 criminal justice sentence for an eligible offense, the court

1 that imposed the sentence shall conduct a sentencing re-
2 view hearing.

3 (b) RESULTS OF A SENTENCING HEARING.—Fol-
4 lowing a sentencing review hearing under subsection (a),
5 a court shall:

6 (1) Vacate the existing sentence or disposition
7 of juvenile delinquency for any eligible offense.

8 (2) Order that all records related to a convic-
9 tion or adjudication of juvenile delinquency that has
10 been vacated be sealed and only be made available
11 by further order of the court.

12 (c) INDIGENT REPRESENTATION.—If the individual
13 is indigent, counsel shall be appointed to represent the in-
14 dividual in any sentencing review proceedings under this
15 section.

16 **SEC. 9. ELIMINATING COLLATERAL CONSEQUENCES OF**
17 **DRUG POSSESSION CONVICTIONS.**

18 (a) DRUG TESTING FOR FEDERAL BENEFITS.—No
19 person shall be denied access to or prohibited from receiv-
20 ing any Federal benefit, program, or supportive service
21 otherwise available on the basis of having been previously
22 convicted of or having a pending criminal case involving
23 the possession of a controlled substance.

1 (b) FOOD BENEFITS AND FAMILY ASSISTANCE.—
2 Section 421a of the Controlled Substances Act (21 U.S.C.
3 862a) is repealed.

4 (c) PROHIBITING DENIAL OF HOUSING ASSIST-
5 ANCE.—

6 (1) IN GENERAL.—Notwithstanding any other
7 provision of law, an applicant shall be denied assist-
8 ance, evicted, or considered ineligible for housing as-
9 sistance under title 8 of the Civil Rights Act of 1968
10 by reason of possession of a controlled substance.

11 (2) REPEAL.—Section 6(t) of the United States
12 Housing Act of 1937 (42 U.S.C. 1437d(t)) is re-
13 pealed.

14 (d) OTHER FEDERAL BENEFITS.—Section 421(b) of
15 the Controlled Substances Act (21 U.S.C. 862(b)) is re-
16 pealed.

17 (e) ELIMINATE IMMIGRATION AND REMOVAL CON-
18 SEQUENCES.—Section 101(a)(43) of the Immigration and
19 Nationality Act (8 U.S.C. 1101(a)(43)) is amended by
20 striking paragraph (43) and inserting the following new
21 paragraph:

22 “(43) AGGRAVATED FELONY.—The term ‘ag-
23 gravated felony’ means—

24 “(A) murder, rape, or sexual abuse of a
25 minor;

1 “(B) illicit trafficking in a controlled sub-
2 stance (as defined in section 102 of the Con-
3 trolled Substances Act (21 U.S.C. 802)), in-
4 cluding a drug trafficking crime (as defined in
5 section 924(c) of title 18).

6 “‘except that no applicant shall be denied assist-
7 ance, evicted, or deemed ineligible under this title by
8 reason of conviction for possessing a controlled sub-
9 stance for personal use.’”.

10 (f) DRIVERS’ LICENSES OF INDIVIDUALS CONVICTED
11 OF DRUG OFFENSES.—Section 159 of title 23, United
12 States Code, is repealed.

13 **SEC. 10. PROTECT VOTING RIGHTS.**

14 (a) FINDINGS.—Congress makes the following find-
15 ings:

16 (1) The right to vote is the most basic constitu-
17 tive act of citizenship. Regaining the right to vote
18 reintegrates individuals with criminal convictions
19 into free society, helping to enhance public safety.

20 (2) Article I, section 4, of the Constitution
21 grants Congress ultimate supervisory power over
22 Federal elections, an authority which has repeatedly
23 been upheld by the Supreme Court.

24 (3) Basic constitutional principles of fairness
25 and equal protection require an equal opportunity

1 for citizens of the United States to vote in Federal
2 elections. The right to vote may not be abridged or
3 denied by the United States or by any State on ac-
4 count of race, color, gender, or previous condition of
5 servitude. The 13th, 14th, 15th, 19th, 24th, and
6 26th Amendments to the Constitution empower Con-
7 gress to enact measures to protect the right to vote
8 in Federal elections. The 8th Amendment to the
9 Constitution provides for no excessive bail to be re-
10 quired, nor excessive fines imposed, nor cruel and
11 unusual punishments inflicted.

12 (4) There are 3 areas in which 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
16 voting in Federal elections leads to an unfair
17 disparity 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.

1 (C) State disenfranchisement laws dis-
2 proportionately impact racial and ethnic minori-
3 ties.

4 (5) Two States (Maine and Vermont), the Dis-
5 trict of Columbia, and the Commonwealth of Puerto
6 Rico do not disenfranchise individuals with criminal
7 convictions at all, but 48 States have laws that deny
8 convicted individuals the right to vote while they are
9 in prison.

10 (6) In some States disenfranchisement results
11 from varying State laws that restrict voting while in-
12 dividuals are under the supervision of the criminal
13 justice system or after they have completed a crimi-
14 nal sentence. In 30 States, convicted individuals may
15 not vote while they are on parole and 27 States dis-
16 enfranchise individuals on felony probation as well.
17 In 11 States, a conviction can result in lifetime dis-
18 enfranchisement.

19 (7) Several States deny the right to vote to in-
20 dividuals convicted of certain misdemeanors.

21 (8) An estimated 5,200,000 citizens of the
22 United States, or about 1 in 44 adults in the United
23 States, currently cannot vote as a result of a felony
24 conviction. Of the 5,200,000 citizens barred from
25 voting, only 24 percent are in prison. By contrast,

1 75 percent of the disenfranchised reside in their
2 communities while on probation or parole or after
3 having completed their sentences. Approximately
4 2,200,000 citizens who have completed their sen-
5 tences remain disenfranchised due to restrictive
6 State laws. In at least 6 States—Alabama, Florida,
7 Kentucky, Mississippi, Tennessee, and Virginia—
8 more than 5 percent of the total voting-age popu-
9 lation is disenfranchised.

10 (9) In those States that disenfranchise individ-
11 uals post-sentence, the right to vote can be regained
12 in theory, but in practice this possibility is often
13 granted in a non-uniform and potentially discrimina-
14 tory manner. Disenfranchised individuals must ei-
15 ther obtain a pardon or an order from the Governor
16 or an action by the parole or pardon board, depend-
17 ing on the offense and State. Individuals convicted
18 of a Federal offense often have additional barriers to
19 regaining voting rights.

20 (10) State disenfranchisement laws dispro-
21 portionately impact racial and ethnic minorities. More
22 than 6 percent of the African-American voting-age
23 population, or 1,800,000 African Americans, are
24 disenfranchised. Currently, 1 of every 16 voting-age
25 African Americans are rendered unable to vote be-

1 cause of felony disenfranchisement, which is a rate
2 more than 3.7 times greater than non-African Amer-
3 icans. Over 6 percent of African-American adults are
4 disenfranchised whereas only 1.7 percent of non-Af-
5 rican Americans are. In 7 States (Alabama, 16 per-
6 cent; Florida, 15 percent; Kentucky, 15 percent;
7 Mississippi, 16 percent; Tennessee, 21 percent; Vir-
8 ginia, 16 percent; and Wyoming, 36 percent), more
9 than 1 in 7 African Americans are unable to vote
10 because of prior convictions, twice the national aver-
11 age for African Americans.

12 (11) Latino citizens are disproportionately
13 disenfranchised based upon their disproportionate
14 representation in the criminal justice system. In re-
15 cent years, Latinos have been imprisoned at 2.5
16 times the rate of Whites. More than 2 percent of the
17 voting-age Latino population, or 560,000 Latinos,
18 are disenfranchised due to a felony conviction. In 34
19 states Latinos are disenfranchised at a higher rate
20 than the general population. In 11 states 4 percent
21 or more of Latino adults are disenfranchised due to
22 a felony conviction (Alabama, 4 percent; Arizona, 7
23 percent; Arkansas, 4 percent; Idaho, 4 percent;
24 Iowa, 4 percent; Kentucky, 6 percent; Minnesota, 4
25 percent; Mississippi, 5 percent; Nebraska, 6 percent;

1 Tennessee, 11 percent, Wyoming, 4 percent), twice
2 the national average for Latinos.

3 (12) Disenfranchising citizens who have been
4 convicted of a criminal offense and who are living
5 and working in the community serves no compelling
6 State interest and hinders their rehabilitation and
7 reintegration into society.

8 (13) State disenfranchisement laws can sup-
9 press electoral participation among eligible voters by
10 discouraging voting among family and community
11 members of disenfranchised persons. Future elec-
12 toral participation by the children of disenfranchised
13 parents may be impacted as well.

14 (14) The United States is the only Western de-
15 mocracy that permits the permanent denial of voting
16 rights for individuals with felony convictions.

17 (b) RIGHTS OF CITIZENS.—The right of an individual
18 who is a citizen of the United States to vote in any election
19 for Federal office shall not be denied or abridged because
20 that individual has been convicted of a criminal offense.

21 (c) ENFORCEMENT.—

22 (1) ATTORNEY GENERAL.—The Attorney Gen-
23 eral may, in a civil action, obtain such declaratory
24 or injunctive relief as is necessary to remedy a viola-
25 tion of this section.

1 (2) PRIVATE RIGHT OF ACTION.—

2 (A) IN GENERAL.—A person who is ag-
3 grieved by a violation of this subsection may
4 provide written notice of the violation to the
5 chief election official of the State involved.

6 (B) RELIEF.—Except as provided in clause
7 (iii), if the violation is not corrected within 90
8 days after receipt of a notice under clause (i),
9 or within 20 days after receipt of the notice if
10 the violation occurred within 120 days before
11 the date of an election for Federal office, the
12 aggrieved person may, in a civil action, obtain
13 declaratory or injunctive relief with respect to
14 the violation.

15 (C) EXCEPTION.—If the violation occurred
16 within 30 days before the date of an election for
17 Federal office, the aggrieved person need not
18 provide notice to the chief election official of the
19 State under clause (i) before bringing a civil ac-
20 tion to obtain declaratory or injunctive relief
21 with respect to the violation.

22 (d) NOTIFICATION OF RESTORATION OF VOTING
23 RIGHTS.—

24 (1) STATE NOTIFICATION.—

1 (A) NOTIFICATION.—On the date deter-
2 mined under clause (ii), each State shall notify
3 in writing any individual who has been con-
4 victed of a criminal offense under the law of
5 that State that such individual has the right to
6 vote in an election for Federal office pursuant
7 to the Democracy Restoration Act of 2021 and
8 may register to vote in any such election and
9 provide such individual with any materials that
10 are necessary to register to vote in any such
11 election.

12 (B) DATE OF NOTIFICATION.—

13 (i) FELONY CONVICTION.—In the case
14 of such an individual who has been con-
15 victed of a felony, the notification required
16 under clause (i) shall be given on the date
17 on which the individual—

18 (I) is sentenced to serve only a
19 term of probation; or

20 (II) is released from the custody
21 of that State (other than to the cus-
22 tody of another State or the Federal
23 Government to serve a term of impris-
24 onment for a felony conviction).

1 (C) MISDEMEANOR CONVICTION.—In the
2 case of such an individual who has been con-
3 victed of a misdemeanor, the notification re-
4 quired under clause (ii) shall be given on the
5 date on which such individual is sentenced by a
6 State court.

7 (2) FEDERAL NOTIFICATION.—

8 (A) NOTIFICATION.—Any individual who
9 has been convicted of a criminal offense under
10 Federal law shall be notified in accordance with
11 clause (ii) that such individual has the right to
12 vote in an election for Federal office pursuant
13 to the Democracy Restoration Act of 2021 and
14 may register to vote in any such election and
15 provide such individual with any materials that
16 are necessary to register to vote in any such
17 election.

18 (B) DATE OF NOTIFICATION.—

19 (i) FELONY CONVICTION.—In the case
20 of such an individual who has been con-
21 victed of a felony, the notification required
22 under clause (i) shall be given—

23 (I) in the case of an individual
24 who is sentenced to serve only a term
25 of probation, by the Assistant Direc-

1 tor for the Office of Probation and
2 Pretrial Services of the Administrative
3 Office of the United States Courts on
4 the date on which the individual is
5 sentenced; or

6 (II) in the case of any individual
7 committed to the custody of the Bu-
8 reau of Prisons, by the Director of the
9 Bureau of Prisons, during the period
10 beginning on the date that is 6
11 months before such individual is re-
12 leased and ending on the date such in-
13 dividual is released from the custody
14 of the Bureau of Prisons.

15 (ii) MISDEMEANOR CONVICTION.—In
16 the case of such an individual who has
17 been convicted of a misdemeanor, the noti-
18 fication required under clause (i) shall be
19 given on the date on which such individual
20 is sentenced by a court established by an
21 Act of Congress.

22 (e) RELATION TO OTHER LAWS.—

23 (1) STATE LAWS RELATING TO VOTING
24 RIGHTS.—Nothing in this section shall be construed
25 to prohibit the States from enacting any State law

1 which affords the right to vote in any election for
2 Federal office on terms less restrictive than those es-
3 tablished by this section.

4 (2) CERTAIN FEDERAL ACTS.—The rights and
5 remedies established by this section are in addition
6 to all other rights and remedies provided by law, and
7 neither rights and remedies established by this Act
8 shall supersede, restrict, or limit the application of
9 the Voting Rights Act of 1965 (52 U.S.C. 10301 et
10 seq.) or the National Voter Registration Act of 1993
11 (52 U.S.C. 20501 et seq.).

12 (3) FEDERAL PRISON FUNDS.—No State, unit
13 of local government, or other person may receive or
14 use, to construct or otherwise improve a prison, jail,
15 or other place of incarceration, any Federal funds
16 unless that person has in effect a program under
17 which each individual incarcerated in that person’s
18 jurisdiction who is a citizen of the United States is
19 notified, upon release from such incarceration, of
20 that individual’s rights under section 1403.

21 (f) PROHIBITION ON CIVIL ASSET FORFEITURES.—
22 Sections 413(a) of the Controlled Substances Act (21
23 U.S.C. 853(a)) is amended by striking “one year” and in-
24 serting “one year, except a person possessing a quantity
25 of controlled substance solely for personal consumption,”.

1 **SEC. 11. REINVEST FUNDS IN SUPPORTIVE PROGRAMS.**

2 (a) DRUG SAFETY GRANT PROGRAM.—

3 (1) ESTABLISHMENT.—Not later than one year
4 after the date of the enactment of this Act, the Sec-
5 retary of Health and Human Services shall establish
6 a grant program to support State and local efforts
7 to expand access to substance abuse treatment, sup-
8 port harm-reduction services, and reduce the crim-
9 inalization of individuals who use drugs by sup-
10 porting the development or expansion of pre-arrest
11 diversion programs.

12 (2) DUTIES.—The grant program shall enhance
13 programs that expand access to substance use treat-
14 ment, enhance the safety of individuals who use
15 drugs, and reduce the entry of individuals who use
16 drugs into the criminal legal system.

17 (3) ELIGIBLE ENTITIES.—

18 (A) IN GENERAL.—An eligible entity for a
19 grant under this paragraph shall be an existing
20 agency or organization, whether government or
21 community-based that are engaged in activities
22 designed to promote the health and welfare of
23 people who use drugs, facilitate the voluntary
24 treatment of individuals with substance use dis-
25 order, provide assistance to individuals as an al-
26 ternative to criminal prosecution, or provide al-

1 ternatives to law enforcement first response
2 services.

3 (B) EXCEPTION.—A law enforcement enti-
4 ty or program that is led principally by a law
5 enforcement entity are not eligible for grants
6 provided by the program.

7 (4) USE OF FUNDS.— An eligible entity under
8 this paragraph may use grant funds for purposes of
9 increasing access to—

10 (A) low barrier substance use disorder
11 treatment that is evidence-informed, trauma-in-
12 formed, culturally responsive, patient-centered,
13 and non-judgmental (including medication as-
14 sisted treatment);

15 (B) harm reduction programs and systems
16 for connecting individuals to harm reduction
17 interventions, including but not limited to over-
18 dose prevention education, access to naloxone
19 hydrochloride and sterile syringes, stimulant-
20 specific drug education and outreach, drug-
21 checking services;

22 (C) peer support and recovery services;

23 (D) non-police crisis-intervention and
24 emergency response programs;

25 (E) pre-arrest diversion programs; and

1 (F) transitional, supportive, and perma-
2 nent housing for persons with substance use
3 disorder.

4 (b) FINDINGS AND INTENT.—Section 101 of the Con-
5 trolled Substances Act (21 U.S.C. 801) is amended by
6 striking paragraphs (1), (2), (3), (4), (5), (6), and (7) and
7 inserting the following new paragraphs:

8 “(1) Evidence-based regulations and education
9 focused on protecting the health and safety of indi-
10 viduals who use controlled substances are necessary
11 to ensure the general welfare of American people.

12 “(2) Since the enactment of the Comprehensive
13 Drug Abuse Prevention and Control Act of 1970 the
14 United States has expended substantial sums of
15 funding on controlling personal consumption of con-
16 trolled substances while prohibiting many services
17 that could help ensure the safety of the consumer
18 drug products in common use and safer conditions
19 for individuals who use drugs. The United States
20 has spent over \$1 trillion on drug control since en-
21 actment of the Act and continues to spend over \$47
22 million annually.

23 “(3) Drug offenses are the leading cause of ar-
24 rest in the United States, remaining largely un-
25 changed from 2010–2019, during which time over

1 10 million arrests were made for drug possession.
2 Black individuals are arrested at rates far higher
3 than their representation in the population and in
4 far greater numbers than individuals in other demo-
5 graphic groups.

6 “(4) Drug arrests have significant collateral
7 consequences, interfering or denying access to edu-
8 cation, employment, housing, child custody, immi-
9 gration, and public benefits.

10 “(5) Drug control strategies focused on crim-
11 inalizing personal use of drugs have not achieved re-
12 ductions in the availability, prevalence of use, prices,
13 or incidence of drug overdose.

14 “(6) The criminalization of people who use
15 drugs reduces the availability of resources for evi-
16 dence-based compassionate drug education, addiction
17 health services, including substance abuse treatment
18 and medication assisted treatment, and other serv-
19 ices focused on the health and safety of consumers.

20 “(7) Federal regulation of controlled substances
21 pursuant to this subchapter shall promote the
22 health, safety and welfare of individuals who use
23 drugs and seek to prevent the harms of criminalizing
24 individual users of drugs.”.

1 **SEC. 12. EVIDENCE-BASED DRUG EDUCATION.**

2 (a) IN GENERAL.—Notwithstanding any other provi-
3 sion of law, and not later than 180 days after the date
4 of the enactment of this Act, the Attorney General shall
5 transfer certain programs to the Secretary of Health and
6 Human Services.

7 (b) FEDERAL FUNDS PROHIBITION.—Notwith-
8 standing any other provision of law, no Federal funds may
9 be used by the Attorney General for drug education pro-
10 gramming, including public education related to drug use,
11 unless that the Attorney General or designee may provide
12 information to the Secretary of Health and Human Serv-
13 ices in support of the Secretary’s responsibilities pursuant
14 to this section.

15 (c) PERSONNEL AND EQUIPMENT.—Notwithstanding
16 any provision of law, a transfer pursuant to paragraph (1)
17 shall include any personnel and equipment exclusively re-
18 sponsible for the administration of the certain programs.

19 (d) CERTAIN PROGRAM DEFINED.—The term “cer-
20 tain program” means Federal programs including:

21 (1) Access to recovery programs.

22 (2) Block grants for prevention and treatment
23 of substance abuse.

24 (3) Community transformation grants.

25 (4) Drug abuse and addiction research pro-
26 grams.

1 (5) Enhance the safety of children affected by
2 parental methamphetamine or other substance
3 abuse.

4 (6) Family connection grants.

5 (7) Using family group decision-making to build
6 protective factors for children and families.

7 (8) Health improvement for reentering ex-of-
8 fenders initiative.

9 (9) Healthy start initiative.

10 (10) HIV prevention activities nongovernmental
11 organization based n the United States.

12 (11) Maternal, infant and early childhood home
13 visiting program.

14 (12) Mentoring children of prisoners.

15 (13) National all schedules prescription elec-
16 tronic reporting grant.

17 (14) Project for assistance in transition from
18 homelessness.

19 (15) Promoting safe and stable homes.

20 (16) Strategic prevention framework.

21 (17) Substance abuse and mental health serv-
22 ices projects of regional and national significance.

23 (18) Urban Indian Health Services.

24 (e) PUBLIC EDUCATION REGARDING DRUGS AND
25 DRUG USE.—Notwithstanding any other provision of law,

1 any Federal funds used for designing, administering, or
2 supporting programs to provide education regarding drugs
3 or drug use shall provide scientifically-accurate, culturally
4 and gender competent, trauma-informed, and evidence-
5 based information about drug use and effects that can
6 help persons participating in such a program make healthy
7 choices about substance use and develop personal and so-
8 cial strategies to manage the risks, benefits, and potential
9 harms of substance use.

10 (f) IMPROVE RESEARCH ON IMPACTS OF DRUG
11 CRIMINALIZATION AND ENFORCEMENT.— Notwithstanding
12 any other provision of law, and not later than one year
13 after the date of the enactment of this Act, the Attorney
14 General shall transfer programs with respect to drugs and
15 crime to the Administrator of the Substance Abuse and
16 Mental Health Services Administration to expand research
17 on harms of criminalization and to study the effectiveness
18 of non-prohibitionist models of ensuring the health and
19 safety of individuals who use drugs.

20 **SEC. 13. DATA COLLECTION AND TRANSPARENCY.**

21 (a) LOCALITY DATA.—Not later than one year after
22 the date of the enactment of this Act, the Director of the
23 Federal Bureau of Investigation make publicly available
24 all available data, on a quarterly basis, regarding local en-
25 forcement of drug laws, including local arrests for drug

1 possession and distribution offenses, possession of drug
2 paraphernalia, public use or intoxication, loitering, and all
3 other drug-related violations.

4 (b) NATIONAL INCIDENT-BASED REPORTING SYS-
5 TEM.—Not later than one year after the date of the enact-
6 ment of this Act, the Director of the Federal Bureau of
7 Investigation shall make available on the internet website
8 of the Federal Bureau of Investigation any data provided
9 by localities to the National Incident-Based Reporting
10 System, including any aggregate data reported regarding
11 the alleged substances and quantities recovered, and de-
12 mographic data for persons arrested.

13 (c) DEPARTMENT OF JUSTICE REPORTING.—Not
14 later than one year after the date of the enactment of this
15 Act, and annually thereafter, the Attorney General shall
16 collect and make publicly available on the internet website
17 of the Department of Justice information from any unit
18 of local government that receives any Federal funding
19 identifying expenditures on drug offense enforcement.

20 **SEC. 14. LIMITATION OF ELIGIBILITY FOR FUNDS.**

21 Beginning in the first fiscal year that begins after
22 the date that is one year after the date of enactment of
23 this Act, a State or unit of local government may not re-
24 ceive funds under subpart 1 of part E of title I of the
25 Omnibus Crime Control and Safe Streets Act of 1968 (34

1 U.S.C. 10151 et seq.) or the under section 1701 of title
2 I of the Omnibus Crime Control and Safe Streets Act of
3 1968 (34 U.S.C. 10381) for a fiscal year if, on the day
4 before the first day of the fiscal year, the State or unit
5 of local government has a law in effect that establishes
6 criminal penalties for the possession of an amount of a
7 controlled substance consistent with personal use.

8 **SEC. 15. PROHIBITION ON CRIMINAL HISTORY INQUIRIES**
9 **PRIOR TO CONDITIONAL OFFER FOR FED-**
10 **ERAL EMPLOYMENT.**

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

14 **“CHAPTER 92—PROHIBITION ON CRIMI-**
15 **NAL HISTORY INQUIRIES PRIOR TO**
16 **CONDITIONAL OFFER**

“Sec.

“9201. Definitions.

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

“9203. Agency policies; complaint procedures.

“9204. Adverse action.

“9205. Procedures.

“9206. Rules of construction.

17 **“§ 9201. Definitions**

18 “In this chapter—

19 “(1) the term ‘agency’ means ‘Executive agen-

20 cy’ as such term is defined in section 105 and in-

21 cludes—

1 “(A) the United States Postal Service and
2 the Postal Regulatory Commission; and

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

4 “(2) the term ‘appointing authority’ means an
5 employee in the executive branch of the Government
6 of the United States that has authority to make ap-
7 pointments to positions in the civil service;

8 “(3) the term ‘conditional offer’ means an offer
9 of employment in a position in the civil service that
10 is conditioned upon the results of a criminal history
11 inquiry;

12 “(4) the term ‘criminal history record informa-
13 tion’—

14 “(A) except as provided in subparagraphs
15 (B) and (C), has the meaning given the term in
16 section 9101(a);

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

20 “(C) includes information collected by a
21 criminal justice agency, relating to an act or al-
22 leged act of juvenile delinquency, that is analo-
23 gous to criminal history record information (in-
24 cluding such information that has been sealed
25 or expunged pursuant to law); and

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

3 **“§ 9202. Limitations on requests for criminal history**
4 **record information**

5 “(a) INQUIRIES PRIOR TO CONDITIONAL OFFER.—
6 Except as provided in subsections (b) and (c), an employee
7 of an agency may not request, in oral or written form (in-
8 cluding through the Declaration for Federal Employment
9 (Office of Personnel Management Optional Form 306) or
10 any similar successor form, the USAJOBS internet
11 website, or any other electronic means) that an applicant
12 for an appointment to a position in the civil service dis-
13 close criminal history record information regarding the ap-
14 plicant before the appointing authority extends a condi-
15 tional offer to the applicant.

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

22 “(c) EXCEPTION FOR CERTAIN POSITIONS.—

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

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

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

6 “(C) identified by the Director of the Of-
7 fice of Personnel Management in the regula-
8 tions issued under paragraph (2).

9 “(2) REGULATIONS.—

10 “(A) ISSUANCE.—The Director of the Of-
11 fice of Personnel Management shall issue regu-
12 lations identifying additional positions with re-
13 spect to which the prohibition under subsection
14 (a) shall not apply, giving due consideration to
15 positions that involve interaction with minors,
16 access to sensitive information, or managing fi-
17 nancial transactions.

18 “(B) COMPLIANCE WITH CIVIL RIGHTS
19 LAWS.—The regulations issued under subpara-
20 graph (A) shall—

21 “(i) be consistent with, and in no way
22 supersede, restrict, or limit the application
23 of title VII of the Civil Rights Act of 1964
24 (42 U.S.C. 2000e et seq.) or other relevant
25 Federal civil rights laws; and

1 “(ii) ensure that all hiring activities
2 conducted pursuant to the regulations are
3 conducted in a manner consistent with rel-
4 evant Federal civil rights laws.

5 **“§ 9203. Agency policies; complaint procedures**

6 “The Director of the Office of Personnel Manage-
7 ment shall—

8 “(1) develop, implement, and publish a policy to
9 assist employees of agencies in complying with sec-
10 tion 9202 and the regulations issued pursuant to
11 such section; and

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

17 **“§ 9204. Adverse action**

18 “(a) FIRST VIOLATION.—If the Director of the Office
19 of Personnel Management determines, after notice and an
20 opportunity for a hearing on the record, that an employee
21 of an agency has violated section 9202, the Director
22 shall—

23 “(1) issue to the employee a written warning
24 that includes a description of the violation and the

1 additional penalties that may apply for subsequent
2 violations; and

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

5 “(b) SUBSEQUENT VIOLATIONS.—If the Director of
6 the Office of Personnel Management determines, after no-
7 tice and an opportunity for a hearing on the record, that
8 an employee that was subject to subsection (a) has com-
9 mitted a subsequent violation of section 9202, the Director
10 may take the following action:

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

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

15 “(3) For a fourth violation—

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

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

20 “(4) For a fifth violation—

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

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

25 “(5) For any subsequent violation—

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

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

5 **“§ 9205. Procedures**

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

11 “(b) APPLICABILITY OF OTHER LAWS.—An adverse
12 action taken under section 9204 (including a determina-
13 tion in an appeal from such an action under subsection
14 (a) of this section) shall not be subject to—

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

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

18 **“§ 9206. Rules of construction**

19 “Nothing in this chapter may be construed to—

20 “(1) authorize any officer or employee of an
21 agency to request the disclosure of information de-
22 scribed under subparagraphs (B) and (C) of section
23 9201(4); or

24 “(2) create a private right of action for any
25 person.”.

1 (b) REGULATIONS; EFFECTIVE DATE.—

2 (1) REGULATIONS.—Not later than 1 year after
3 the date of enactment of this Act, the Director of
4 the Office of Personnel Management shall issue such
5 regulations as are necessary to carry out chapter 92
6 of title 5, United States Code (as added by this
7 Act).

8 (2) EFFECTIVE DATE.—Section 9202 of title 5,
9 United States Code (as added by this Act), shall
10 take effect on the date that is 2 years after the date
11 of enactment of this Act.

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

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

16 (d) APPLICATION TO LEGISLATIVE BRANCH.—

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

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

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

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

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

5 **“SEC. 207. RIGHTS AND PROTECTIONS RELATING TO CRIMI-**
6 **NAL HISTORY INQUIRIES.**

7 “(a) DEFINITIONS.—In this section, the terms ‘agen-
8 cy’, ‘criminal history record information’, and ‘suspension’
9 have the meanings given the terms in section 9201 of title
10 5, United States Code, except as otherwise modified by
11 this section.

12 “(b) RESTRICTIONS ON CRIMINAL HISTORY INQUIR-
13 IES.—

14 “(1) IN GENERAL.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), an employee of an employing
17 office may not request that an applicant for em-
18 ployment as a covered employee disclose crimi-
19 nal history record information if the request
20 would be prohibited under section 9202 of title
21 5, United States Code, if made by an employee
22 of an agency.

23 “(B) CONDITIONAL OFFER.—For purposes
24 of applying that section 9202 under subpara-
25 graph (A), a reference in that section 9202 to

1 a conditional offer shall be considered to be an
2 offer of employment as a covered employee that
3 is conditioned upon the results of a criminal
4 history inquiry.

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

9 “(c) REMEDY.—

10 “(1) IN GENERAL.—The remedy for a violation
11 of subsection (b)(1) shall be such remedy as would
12 be appropriate if awarded under section 9204 of title
13 5, United States Code, if the violation had been
14 committed by an employee of an agency, consistent
15 with regulations issued under subsection (d), except
16 that the reference in that section to a suspension
17 shall be considered to be a suspension with the level
18 of compensation provided for a covered employee
19 who is taking unpaid leave under section 202.

20 “(2) PROCESS FOR OBTAINING RELIEF.—An
21 applicant for employment as a covered employee who
22 alleges a violation of subsection (b)(1) may rely on
23 the provisions of title IV (other than section 407 or
24 408, or a provision of this title that permits a per-

1 son to obtain a civil action or judicial review), con-
2 sistent with regulations issued under subsection (d).

3 “(d) REGULATIONS TO IMPLEMENT SECTION.—

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

9 “(2) PARALLEL WITH AGENCY REGULATIONS.—

10 The regulations issued under paragraph (1) shall be
11 the same as substantive regulations issued by the
12 Director of the Office of Personnel Management
13 under section 2(b)(1) of the Fair Chance to Com-
14 pete for Jobs Act of 2019 to implement the statu-
15 tory provisions referred to in subsections (a) through
16 (c) except to the extent that the Board may deter-
17 mine, for good cause shown and stated together with
18 the regulation, that a modification of such regula-
19 tions would be more effective for the implementation
20 of the rights and protections under this section.

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

25 (2) CLERICAL AMENDMENTS.—

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

4 (i) by redesignating the item relating
5 to section 207 as the item relating to sec-
6 tion 208; and

7 (ii) by inserting after the item relating
8 to section 206 the following new item:

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

9 (B) Section 62(e)(2) of the Internal Rev-
10 enue Code of 1986 is amended by striking “or
11 207” and inserting “207, or 208”.

12 (e) APPLICATION TO JUDICIAL BRANCH.—

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

16 “(i) RESTRICTIONS ON CRIMINAL HISTORY INQUIR-
17 IES.—

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

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

22 “(B) the term ‘covered employee’ means an
23 employee of the judicial branch of the United
24 States Government, other than—

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

3 “(ii) a United States magistrate
4 judge; or

5 “(iii) a bankruptcy judge; and

6 “(C) the term ‘employing office’ means any
7 office or entity of the judicial branch of the
8 United States Government that employs covered
9 employees.

10 “(2) RESTRICTION.—A covered employee may
11 not request that an applicant for employment as a
12 covered employee disclose criminal history record in-
13 formation if the request would be prohibited under
14 section 9202 of title 5 if made by an employee of an
15 agency.

16 “(3) EMPLOYING OFFICE POLICIES; COMPLAINT
17 PROCEDURE.—The provisions of sections 9203 and
18 9206 of title 5 shall apply to employing offices and
19 to applicants for employment as covered employees,
20 consistent with regulations issued by the Director to
21 implement this subsection.

22 “(4) ADVERSE ACTION.—

23 “(A) ADVERSE ACTION.—The Director
24 may take such adverse action with respect to a
25 covered employee who violates paragraph (2) as

1 would be appropriate under section 9204 of
2 title 5 if the violation had been committed by
3 an employee of an agency.

4 “(B) APPEALS.—The Director shall by
5 rule establish procedures providing for an ap-
6 peal from any adverse action taken under sub-
7 paragraph (A) by not later than 30 days after
8 the date of the action.

9 “(C) APPLICABILITY OF OTHER LAWS.—
10 Except as provided in subparagraph (B), an ad-
11 verse action taken under subparagraph (A) (in-
12 cluding a determination in an appeal from such
13 an action under subparagraph (B)) shall not be
14 subject to appeal or judicial review.

15 “(5) REGULATIONS TO BE ISSUED.—

16 “(A) IN GENERAL.—Not later than 18
17 months after the date of enactment of the Fair
18 Chance to Compete for Jobs Act of 2019, the
19 Director shall issue regulations to implement
20 this subsection.

21 “(B) PARALLEL WITH AGENCY REGULA-
22 TIONS.—The regulations issued under subpara-
23 graph (A) shall be the same as substantive reg-
24 ulations promulgated by the Director of the Of-
25 fice of Personnel Management under section

1 2(b)(1) of the Fair Chance to Compete for Jobs
2 Act of 2019 except to the extent that the Direc-
3 tor of the Administrative Office of the United
4 States Courts may determine, for good cause
5 shown and stated together with the regulation,
6 that a modification of such regulations would be
7 more effective for the implementation of the
8 rights and protections under this subsection.

9 “(6) EFFECTIVE DATE.—Paragraphs (1)
10 through (4) shall take effect on the date on which
11 section 9202 of title 5 applies with respect to agen-
12 cies.”.

13 **SEC. 16. PROHIBITION ON CRIMINAL HISTORY INQUIRIES**
14 **BY CONTRACTORS PRIOR TO CONDITIONAL**
15 **OFFER.**

16 (a) CIVILIAN AGENCY CONTRACTS.—

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

20 **“§ 4714. Prohibition on criminal history inquiries by**
21 **contractors prior to conditional offer**

22 “(a) LIMITATION ON CRIMINAL HISTORY INQUIR-
23 IES.—

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

1 “(A) may not require that an individual or
2 sole proprietor who submits a bid for a contract
3 to disclose criminal history record information
4 regarding that individual or sole proprietor be-
5 fore determining the apparent awardee; and

6 “(B) shall require, as a condition of receiv-
7 ing a Federal contract and receiving payments
8 under such contract that the contractor may
9 not verbally, or through written form, request
10 the disclosure of criminal history record infor-
11 mation regarding an applicant for a position re-
12 lated to work under such contract before the
13 contractor extends a conditional offer to the ap-
14 plicant.

15 “(2) OTHERWISE REQUIRED BY LAW.—The
16 prohibition under paragraph (1) does not apply with
17 respect to a contract if consideration of criminal his-
18 tory record information prior to a conditional offer
19 with respect to the position is otherwise required by
20 law.

21 “(3) EXCEPTION FOR CERTAIN POSITIONS.—

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

24 “(i) a contract that requires an indi-
25 vidual hired under the contract to access

1 classified information or to have sensitive
2 law enforcement or national security du-
3 ties; or

4 “(ii) a position that the Administrator
5 of General Services identifies under the
6 regulations issued under subparagraph
7 (B).

8 “(B) REGULATIONS.—

9 “(i) ISSUANCE.—Not later than 16
10 months after the date of enactment of the
11 Fair Chance to Compete for Jobs Act of
12 2019, the Administrator of General Serv-
13 ices, in consultation with the Secretary of
14 Defense, shall issue regulations identifying
15 additional positions with respect to which
16 the prohibition under paragraph (1) shall
17 not apply, giving due consideration to posi-
18 tions that involve interaction with minors,
19 access to sensitive information, or man-
20 aging financial transactions.

21 “(ii) COMPLIANCE WITH CIVIL RIGHTS
22 LAWS.—The regulations issued under
23 clause (i) shall—

24 “(I) be consistent with, and in no
25 way supersede, restrict, or limit the

1 application of title VII of the Civil
2 Rights Act of 1964 (42 U.S.C. 2000e
3 et seq.) or other relevant Federal civil
4 rights laws; and

5 “(II) ensure that all hiring activi-
6 ties conducted pursuant to the regula-
7 tions are conducted in a manner con-
8 sistent with relevant Federal civil
9 rights laws.

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

16 “(c) ACTION FOR VIOLATIONS OF PROHIBITION ON
17 CRIMINAL HISTORY INQUIRIES.—

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

21 “(A) notify the contractor;

22 “(B) provide 30 days after such notifica-
23 tion for the contractor to appeal the determina-
24 tion; and

1 “(C) issue a written warning to the con-
2 tractor that includes a description of the viola-
3 tion and the additional remedies that may apply
4 for subsequent violations.

5 “(2) SUBSEQUENT VIOLATION.—If the head of
6 an executive agency determines that a contractor
7 that was subject to paragraph (1) has committed a
8 subsequent violation of subsection (a)(1)(B), such
9 head shall notify the contractor, shall provide 30
10 days after such notification for the contractor to ap-
11 peal the determination, and, in consultation with the
12 relevant Federal agencies, may take actions, depend-
13 ing on the severity of the infraction and the contrac-
14 tor’s history of violations, including—

15 “(A) providing written guidance to the
16 contractor that the contractor’s eligibility for
17 contracts requires compliance with this section;

18 “(B) requiring that the contractor respond
19 within 30 days affirming that the contractor is
20 taking steps to comply with this section; and

21 “(C) suspending payment under the con-
22 tract for which the applicant was being consid-
23 ered until the contractor demonstrates compli-
24 ance with this section.

25 “(d) DEFINITIONS.—In this section:

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

5 “(2) **CRIMINAL HISTORY RECORD INFORMA-**
6 **TION.**—The term ‘criminal history record informa-
7 tion’ has the meaning given that term in section
8 9201 of title 5.”.

9 (2) **CLERICAL AMENDMENT.**—The table of sec-
10 tions for chapter 47 of title 41, United States Code,
11 is amended by adding at the end the following new
12 item:

“4714. Prohibition on criminal history inquiries by contractors prior to condi-
 tional offer.”.

13 (3) **EFFECTIVE DATE.**—Section 4714 of title
14 41, United States Code, as added by paragraph (1),
15 shall apply with respect to contracts awarded pursu-
16 ant to solicitations issued after the effective date de-
17 scribed in section 2(b)(2) of this Act.

18 (b) **DEFENSE CONTRACTS.**—

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

1 **“§ 2339. Prohibition on criminal history inquiries by**
2 **contractors prior to conditional offer**

3 “(a) LIMITATION ON CRIMINAL HISTORY INQUIR-
4 IES.—

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

7 “(A) may not require that an individual or
8 sole proprietor who submits a bid for a contract
9 to disclose criminal history record information
10 regarding that individual or sole proprietor be-
11 fore determining the apparent awardee; and

12 “(B) shall require as a condition of receiv-
13 ing a Federal contract and receiving payments
14 under such contract that the contractor may
15 not verbally or through written form request
16 the disclosure of criminal history record infor-
17 mation regarding an applicant for a position re-
18 lated to work under such contract before such
19 contractor extends a conditional offer to the ap-
20 plicant.

21 “(2) OTHERWISE REQUIRED BY LAW.—The
22 prohibition under paragraph (1) does not apply with
23 respect to a contract if consideration of criminal his-
24 tory record information prior to a conditional offer
25 with respect to the position is otherwise required by
26 law.

1 “(3) EXCEPTION FOR CERTAIN POSITIONS.—

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

4 “(i) a contract that requires an indi-
5 vidual hired under the contract to access
6 classified information or to have sensitive
7 law enforcement or national security du-
8 ties; or

9 “(ii) a position that the Secretary of
10 Defense identifies under the regulations
11 issued under subparagraph (B).

12 “(B) REGULATIONS.—

13 “(i) ISSUANCE.—Not later than 16
14 months after the date of enactment of the
15 Fair Chance to Compete for Jobs Act of
16 2019, the Secretary of Defense, in con-
17 sultation with the Administrator of Gen-
18 eral Services, shall issue regulations identi-
19 fying additional positions with respect to
20 which the prohibition under paragraph (1)
21 shall not apply, giving due consideration to
22 positions that involve interaction with mi-
23 nors, access to sensitive information, or
24 managing financial transactions.

1 “(ii) COMPLIANCE WITH CIVIL RIGHTS
2 LAWS.—The regulations issued under
3 clause (i) shall—

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

10 “(II) ensure that all hiring activi-
11 ties conducted pursuant to the regula-
12 tions are conducted in a manner con-
13 sistent with relevant Federal civil
14 rights laws.

15 “(b) COMPLAINT PROCEDURES.—The Secretary of
16 Defense shall establish and publish procedures under
17 which an applicant for a position with a Department of
18 Defense contractor may submit a complaint, or any other
19 information, relating to compliance by the contractor with
20 subsection (a)(1)(B).

21 “(c) ACTION FOR VIOLATIONS OF PROHIBITION ON
22 CRIMINAL HISTORY INQUIRIES.—

23 “(1) FIRST VIOLATION.—If the Secretary of
24 Defense determines that a contractor has violated
25 subsection (a)(1)(B), the Secretary shall—

1 “(A) notify the contractor;

2 “(B) provide 30 days after such notifica-
3 tion for the contractor to appeal the determina-
4 tion; and

5 “(C) issue a written warning to the con-
6 tractor that includes a description of the viola-
7 tion and the additional remedies that may apply
8 for subsequent violations.

9 “(2) SUBSEQUENT VIOLATIONS.—If the Sec-
10 retary of Defense determines that a contractor that
11 was subject to paragraph (1) has committed a sub-
12 sequent violation of subsection (a)(1)(B), the Sec-
13 retary shall notify the contractor, shall provide 30
14 days after such notification for the contractor to ap-
15 peal the determination, and, in consultation with the
16 relevant Federal agencies, may take actions, depend-
17 ing on the severity of the infraction and the contrac-
18 tor’s history of violations, including—

19 “(A) providing written guidance to the
20 contractor that the contractor’s eligibility for
21 contracts requires compliance with this section;

22 “(B) requiring that the contractor respond
23 within 30 days affirming that the contractor is
24 taking steps to comply with this section; and

1 “(C) suspending payment under the con-
2 tract for which the applicant was being consid-
3 ered until the contractor demonstrates compli-
4 ance with this section.

5 “(d) DEFINITIONS.—In this section:

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

10 “(2) CRIMINAL HISTORY RECORD INFORMA-
11 TION.—The term ‘criminal history record informa-
12 tion’ has the meaning given that term in section
13 9201 of title 5.”.

14 “(2) EFFECTIVE DATE.—Section 2339(a) of title
15 10, United States Code, as added by paragraph (1),
16 shall apply with respect to contracts awarded pursu-
17 ant to solicitations issued after the effective date de-
18 scribed in section 2(b)(2) of this Act.

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

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

23 “(c) REVISIONS TO FEDERAL ACQUISITION REGULA-
24 TION.—

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

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

9 (b) **STUDY AND REPORT REQUIRED.**—The Director
10 of the Bureau of Justice Statistics, in coordination with
11 the Director of the Bureau of the Census, shall—

12 (1) not later than 180 days after the date of
13 enactment of this Act, design and initiate a study on
14 the employment of covered individuals after their re-
15 lease from Federal prison, including by collecting—

16 (A) demographic data on covered individ-
17 uals, including race, age, and sex; and

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

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

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

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

5 (C) the Committee on Oversight and Re-
6 form of the House of Representatives; and

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

9 **SEC. 18. DETERMINATION OF BUDGETARY EFFECTS.**

10 The budgetary effects of this Act, for the purpose of
11 complying with the Statutory Pay-As-You-Go Act of 2010,
12 shall be determined by reference to the latest statement
13 titled “Budgetary Effects of PAYGO Legislation” for this
14 Act, submitted for printing in the Congressional Record
15 by the Chairman of the House Budget Committee, pro-
16 vided that such statement has been submitted prior to the
17 vote on passage.

18 **SEC. 19. DEFINITIONS.**

19 In this Act:

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) CRIMINAL JUSTICE SENTENCE.—The term
4 “criminal justice sentence” means any requirement
5 imposed pursuant to a sentence, including incarcer-
6 ation, supervised release, parole, or probation.

7 (3) ELECTION.—The term “election” means—

8 (A) a general, special, primary, or runoff
9 election;

10 (B) a convention or caucus of a political
11 party held to nominate a candidate;

12 (C) a primary election held for the selec-
13 tion of delegates to a national nominating con-
14 vention of a political party; or

15 (D) a primary election held for the expres-
16 sion of a preference for the nomination of per-
17 sons for election to the office of President.

18 (4) ELIGIBLE OFFENSE.—The term “eligible of-
19 fense” means an offense for a controlled substances
20 with respect to an amount that is lower than the
21 benchmark determined by the Commission on Sub-
22 stance Use, Health, and Safety established under
23 section 6 of this Act.

24 (5) FEDERAL OFFICE.—The term “Federal of-
25 fice” means the office of President or Vice President

1 of the United States, or of Senator or Representa-
2 tive in, or Delegate or Resident Commissioner to,
3 the Congress of the United States.

4 (6) INDIGENOUS COMMUNITIES.—The term
5 “Indigenous communities” includes each of the Fed-
6 erally recognized Indian tribes.

7 (7) PROBATION.—The term “probation” means
8 probation, imposed by a Federal, State, or local
9 court, with or without a condition on the individual
10 involved concerning—

11 (A) the individual’s freedom of movement;

12 (B) the payment of damages by the indi-
13 vidual;

14 (C) periodic reporting by the individual to
15 an officer of the court; or

16 (D) supervision of the individual by an of-
17 ficer of the court.