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.

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

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

Congress finds the following:

(1) For most of the past century the United States has adopted increasingly punitive policies toward the possession, use, and distribution of drugs.
Particularly in the last 50 years, the United States has built a massive regime to enforce those policies.

(2) Congress and State legislatures have adopted increasingly harsh sentencing schemes such as mandatory minimums, established far-reaching and oppressive civil sanctions and collateral consequences, approved policies weakening the Fourth Amendment for drug searches and seizures, and fostered incentives for aggressive and militarized policing in the alleged pursuit of drugs.

(3) Every year, there are more than 1.4 million arrests in the United States for drug-related offenses. In over 85 percent of those arrests, drug possession was the most serious offense. Drug arrests disproportionately impact people of color and more commonly occur in historically overpoliced, low-income communities. A criminal record, even for an arrest that did not result in a conviction, has a profound impact on individuals, often interrupting employment, housing, family relationships, child custody, and education.

(4) A health-based approach to drug use and overdose is more effective, humane and cost-effective than criminal punishments. Subjecting people to criminal penalties, stigma, and other lasting collat-
eral consequences because they use drugs is expensive, ruins lives, and can make access to treatment and recovery more difficult.

(5) Despite high numbers of arrests and incarceration in the United States for drug possession, the number and rate of drug-involved overdose deaths has skyrocketed for over 20 years and continues at epidemic levels. In 2019, 70,630 people died by drug overdose in the United States.

(6) Harm reduction services and voluntary, on-demand access to evidence-based substance use disorder treatment have proven highly effective in reducing overdose and the spread of communicable diseases like HIV and Hepatitis C, preventing drug-related injury, and improving health outcomes for people who use drugs. These services should be available on demand to anyone who requests it.

(7) Far too many people who desire treatment face challenges that prevent them from accessing the services they want, including cost barriers, lack of providers, and long wait-lists. On-demand access to evidence-based treatment saves lives, reduces crime, and saves money. Barriers to treatment should be removed or minimized.
(8) Criminalizing drug use and possession reduces the amount of resources available for harm reduction and treatment services and deters people from accessing available services due to fear of arrest.

(9) Punitive policies have achieved no reduction in supplies or prices, but instead have created unnecessarily risky and harmful conditions for people who use drugs.

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

(11) While drug decriminalization cannot fully repair our broken and oppressive criminal legal system or the harms of an unregulated drug market, shifting from absolute prohibition to drug decriminalization helps restore individual liberty, protect against some police abuses, better assist those in need, and save tax dollars.
(12) This concept is neither new nor radical. Other nations, including Portugal, have successfully decriminalized personal use quantities of drugs and achieved meaningful improvements in treating problematic drug use and reducing the harms of policing drugs.

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

SEC. 3. SENSE OF CONGRESS.

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

(1) refocus its strategies for addressing substance use disorder and dangerous drug use from strategies focused on controlling and punishing unauthorized drug possession to a system that is health focused, evidence-based, and respectful of self-determination;

(2) invest in harm-reduction services and substance use disorder treatment to help prevent over-
dose and other health risks, and strengthen connections to services that provide foundational social and economic support; and

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

SEC. 4. SHIFT REGULATORY AUTHORITY.

(a) Authority and Criteria for Classification of Substances.—Section 201 of the Controlled Substances Act (21 U.S.C. 811) is amended by striking “Attorney General” and inserting “Secretary of Health and Human Services” each place it appears.

(b) Removal of Exemption of Certain Drugs.—Section 204 of the Controlled Substances Act (21 U.S.C. 814) is amended by striking “Attorney General” and inserting “Secretary of Health and Human Services” each place it appears.

(c) Transfer Plan.—

(1) Report to Congress.—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall jointly develop and sub-
mit to the Congress a plan for transferring information necessary to effect the transfer of classification responsibility required under this section.

(2) REPORT TO GENERAL SERVICES ADMINISTRATION.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall transmit to the Administrator of the General Services Administration a report that specifies the property that is specific to the functions to be transferred to the Secretary of Health and Human Services pursuant to this section.

SEC. 5. ELIMINATE CRIMINAL PENALTIES FOR PERSONAL USE POSSESSION.

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

``(b) PERSONAL USE EXCEPTION.—(1) A person possessing or using a controlled substance in an amount no greater than the benchmark amount (determined by the Commission on Substance Use, Health, and Safety established by the Drug Policy Reform Act of 2021) shall not be subject to a criminal or civil penalty under this section.

``(2) The suspected possession or use of a controlled substance in an amount no greater than the benchmark amount (determined by the Commission on Substance
Use, Health, and Safety established by the Drug Policy Reform Act of 2021) shall not constitute a basis for detaining, searching, arresting, questioning or surveilling any person, or seizing property including, controlled substances and any items used for the ingestion, consumption, preparation, packaging, or storage of a controlled substance.

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

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

(c) REPEAL.—Section 405 of the Controlled Substances Act (21 U.S.C. 844a) is repealed.

SEC. 6. COMMISSION ON SUBSTANCE USE, HEALTH, AND SAFETY.

(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish a “Commission on Substance Use, Health, and Safety” (hereinafter known as the “Commission”).
(b) Purpose.—

(1) Benchmarks.—

(A) In general.—The Commission under paragraph (1) shall determine a benchmark amount for a controlled substance. The Commission shall consist of people with current or past substance use needs and qualified persons in the fields of general and behavioral healthcare, harm reduction, and substance use disorder treatment. Priority shall be given to people who have lived experience with substance use needs the quantity of drug commonly possessed by an individual benchmark personal use supply, for controlled substances.

(B) Duties.—The Commission shall consider the following in developing the benchmarks under subparagraph (A)—

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

(ii) differences in commonly possessed quantities resulting from factors relating to geography, income, employment, and other related demographic characteristics; and
(iii) differences in commonly possessed quantities resulting from varying modes of use.

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

(c) MEMBERSHIP.—The Commission under subsection (a) shall be composed of at least 18 members and shall include:

(1) VOTING MEMBERS.—

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

(B) Two members of communities that have been disproportionately impacted by arrests, prosecution or sentencing for drug offenses.

(C) One peer support specialist.

(D) A harm reduction service provider.

(E) A person specializing in housing services for people with substance use needs or mental health needs.
(F) A physician specializing in addiction medicine and with expertise in the treatment of opioid use disorders with methadone or buprenorphine.

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

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

(I) A licensed clinical social worker with expertise in providing intensive case management to people with substance use needs.

(J) A person who works for a nonprofit organization that advocates for persons with substance use needs.

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

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

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

(2) NON-VOTING MEMBER.—A designee of a State Health Agency shall serve on the Commission as a non-voting member.
(d) TERMS.—A member of the Commission shall serve for a term of three years and may be reappointed by the Secretary for additional terms thereafter.

(e) MEETINGS.—Not later than 180 days after the date of the enactment of this Act, and at minimum four times per calendar year thereafter, the Commission shall convene to establish and review the benchmarks established under paragraph (2) and make any necessary amendments or further guidance with respect to the responsibilities of the Commission.

(f) REPORTING.—

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

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

(B) recommendations for preventing the prosecution of individuals possessing, distributing, or dispensing personal use quantities of each drug for purposes of subsistence distribution.
(2) REPORT TO DEPARTMENT OF JUSTICE.—Not later than one year after the date of the enactment of this Act, the report on personal use guidelines published under paragraph (1) shall be transmitted to the Attorney General.

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

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

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

(g) DEFINITIONS.—In this subsection:

(1) BENCHMARK PERSONAL USE SUPPLY.—The term “benchmark personal use supply” means the amount of a drug commonly possessed for consump-
tion by an individual for any therapeutic, medicinal, recreational purpose.

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

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

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

SEC. 7. EXPUNGEMENT AND SEALING OF RECORDS.

(a) AUTOMATIC SEALING CERTAIN RECORDS.—Not later than one year after the date of the enactment of this Act, each Federal district court shall conduct a comprehensive review to identify individuals eligible to have
a record of conviction or adjudication of juvenile delinquency that may be sealed pursuant to this Act and shall issue an order expunging each conviction or adjudication for a Federal offense entered by each Federal court in the district for a conviction of possession of a controlled substance in an amount equal to or less than the benchmark amount established under this Act.

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

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

(1) may treat the arrest, conviction, or adjudication as if it never occurred; and

(2) shall be immune from any civil or criminal penalties related to perjury, false swearing, or false statements, for a failure to disclose such arrest, conviction, or adjudication.

(d) NOTIFICATION.—To the extent practicable, each Federal district court shall notify each individual whose arrest, conviction, or adjudication of juvenile delinquency has been expunged under this section and the effect of such expungement.
(c) **Right to Petition for Sealing.**—After the date of the enactment of this Act, an individual with a conviction or adjudication of juvenile delinquency for an eligible offense not sealed pursuant to subsection (a) may file a motion for expungement. If the expungement of such a conviction or adjudication of juvenile delinquency is required pursuant to this Act, the court shall expunge the conviction or adjudication, and any associated arrests. If the individual is indigent, counsel shall be appointed to represent the individual in any proceedings under this subsection.

(f) **Fees Prohibited.**—No fee shall be imposed for filing a petition or any proceeding provided for under this section.

(g) **Expunge Defined.**—In this subsection, the term “expunge” means, with respect to an arrest, a conviction, or adjudication of juvenile delinquency, the removal of the record of such arrest, conviction, or adjudication from each official index and public record.

**Sec. 8. Relief for Individuals Incarcerated or on Supervision for Certain Drug Convictions.**

(a) **In General.**—Not later than 30 days after the date of the enactment of this Act, an individual under a criminal justice sentence for an eligible offense, the court
that imposed the sentence shall conduct a sentencing re-
view hearing.

(b) Results of a Sentencing Hearing.—Following a sentencing review hearing under subsection (a), a court shall:

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

(2) Order that all records related to a conviction or adjudication of juvenile delinquency that has been vacated be sealed and only be made available by further order of the court.

(c) Indigent Representation.—If the individual is indigent, counsel shall be appointed to represent the individual in any sentencing review proceedings under this section.

SEC. 9. ELIMINATING COLLATERAL CONSEQUENCES OF DRUG POSSESSION CONVICTIONS.

(a) Drug Testing for Federal Benefits.—No person shall be denied access to or prohibited from receiving any Federal benefit, program, or supportive service otherwise available on the basis of having been previously convicted of or having a pending criminal case involving the possession of a controlled substance.
(b) Food Benefits and Family Assistance.—

Section 421a of the Controlled Substances Act (21 U.S.C. 862a) is repealed.

(c) Prohibiting Denial of Housing Assistance.—

(1) In General.—Notwithstanding any other provision of law, an applicant shall be denied assistance, evicted, or considered ineligible for housing assistance under title 8 of the Civil Rights Act of 1968 by reason of possession of a controlled substance.

(2) Repeal.—Section 6(t) of the United States Housing Act of 1937 (42 U.S.C. 1437d(t)) is repealed.

(d) Other Federal Benefits.—Section 421(b) of the Controlled Substances Act (21 U.S.C. 862(b)) is repealed.

(e) Eliminate Immigration and Removal Consequences.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43) is amended by striking paragraph (43) and inserting the following new paragraph:

“(43) Aggravated Felony.—The term ‘aggravated felony’ means—

“(A) murder, rape, or sexual abuse of a minor;
“(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), including a drug trafficking crime (as defined in section 924(c) of title 18).

‘except that no applicant shall be denied assistance, evicted, or deemed ineligible under this title by reason of conviction for possessing a controlled substance for personal use.’ “.

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

SEC. 10. PROTECT VOTING RIGHTS.

(a) FINDINGS.—Congress makes the following findings:

(1) The right to vote is the most basic constitutive act of citizenship. Regaining the right to vote reintegrates individuals with criminal convictions into free society, helping to enhance public safety.

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

(3) Basic constitutional principles of fairness and equal protection require an equal opportunity
for citizens of the United States to vote in Federal
elections. The right to vote may not be abridged or
denied by the United States or by any State on ac-
count of race, color, gender, or previous condition of
servitude. The 13th, 14th, 15th, 19th, 24th, and
26th Amendments to the Constitution empower Con-
gress to enact measures to protect the right to vote
in Federal elections. The 8th Amendment to the
Constitution provides for no excessive bail to be re-
quired, nor excessive fines imposed, nor cruel and
unusual punishments inflicted.

(4) There are 3 areas in which discrepancies in
State laws regarding criminal convictions lead to un-
fairness in Federal elections:

(A) The lack of a uniform standard for
voting in Federal elections leads to an unfair
disparity and unequal participation in Federal
elections based solely on where a person lives.

(B) Laws governing the restoration of vot-
ing rights after a criminal conviction vary
throughout the country, and persons in some
States can easily regain their voting rights
while in other States persons effectively lose
their right to vote permanently.
(C) State disenfranchisement laws disproportionately impact racial and ethnic minorities.

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

(6) In some States disenfranchisement results from varying State laws that restrict voting while individuals are under the supervision of the criminal justice system or after they have completed a criminal sentence. In 30 States, convicted individuals may not vote while they are on parole and 27 States disenfranchise individuals on felony probation as well. In 11 States, a conviction can result in lifetime disenfranchisement.

(7) Several States deny the right to vote to individuals convicted of certain misdemeanors.

(8) An estimated 5,200,000 citizens of the United States, or about 1 in 44 adults in the United States, currently cannot vote as a result of a felony conviction. Of the 5,200,000 citizens barred from voting, only 24 percent are in prison. By contrast,
75 percent of the disenfranchised reside in their communities while on probation or parole or after having completed their sentences. Approximately 2,200,000 citizens who have completed their sentences remain disenfranchised due to restrictive State laws. In at least 6 States—Alabama, Florida, Kentucky, Mississippi, Tennessee, and Virginia—more than 5 percent of the total voting-age population is disenfranchised.

(9) In those States that disenfranchise individuals post-sentence, the right to vote can be regained in theory, but in practice this possibility is often granted in a non-uniform and potentially discriminatory manner. Disenfranchised individuals must either obtain a pardon or an order from the Governor or an action by the parole or pardon board, depending on the offense and State. Individuals convicted of a Federal offense often have additional barriers to regaining voting rights.

(10) State disenfranchisement laws disproportionately impact racial and ethnic minorities. More than 6 percent of the African-American voting-age population, or 1,800,000 African Americans, are disenfranchised. Currently, 1 of every 16 voting-age African Americans are rendered unable to vote be-
cause of felony disenfranchisement, which is a rate
more than 3.7 times greater than non-African Amer-
icans. Over 6 percent of African-American adults are
disenfranchised whereas only 1.7 percent of non-Af-
rican Americans are. In 7 States (Alabama, 16 per-
cent; Florida, 15 percent; Kentucky, 15 percent;
Mississippi, 16 percent; Tennessee, 21 percent; Vir-
ginia, 16 percent; and Wyoming, 36 percent), more
than 1 in 7 African Americans are unable to vote
because of prior convictions, twice the national aver-
age for African Americans.

(11) Latino citizens are disproportionately
disenfranchised based upon their disproportionate
representation in the criminal justice system. In re-
cent years, Latinos have been imprisoned at 2.5
times the rate of Whites. More than 2 percent of the
voting-age Latino population, or 560,000 Latinos,
are disenfranchised due to a felony conviction. In 34
states Latinos are disenfranchised at a higher rate
than the general population. In 11 states 4 percent
or more of Latino adults are disenfranchised due to
a felony conviction (Alabama, 4 percent; Arizona, 7
percent; Arkansas, 4 percent; Idaho, 4 percent;
Iowa, 4 percent; Kentucky, 6 percent; Minnesota, 4
percent; Mississippi, 5 percent; Nebraska, 6 percent;
Tennessee, 11 percent, Wyoming, 4 percent), twice the national average for Latinos.

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

(13) State disenfranchisement laws can suppress electoral participation among eligible voters by discouraging voting among family and community members of disenfranchised persons. Future electoral participation by the children of disenfranchised parents may be impacted as well.

(14) The United States is the only Western democracy that permits the permanent denial of voting rights for individuals with felony convictions.

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

(c) ENFORCEMENT.—

(1) ATTORNEY GENERAL.—The Attorney General may, in a civil action, obtain such declaratory or injunctive relief as is necessary to remedy a violation of this section.
(2) Private right of action.—

(A) In general.—A person who is aggrieved by a violation of this subsection may provide written notice of the violation to the chief election official of the State involved.

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

(C) Exception.—If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under clause (i) before bringing a civil action to obtain declaratory or injunctive relief with respect to the violation.

(d) Notification of restoration of voting rights.—

(1) State notification.—
(A) NOTIFICATION.—On the date determined under clause (ii), each State shall notify in writing any individual who has been convicted of a criminal offense under the law of that State that such individual has the right to vote in an election for Federal office pursuant to the Democracy Restoration Act of 2021 and may register to vote in any such election and provide such individual with any materials that are necessary to register to vote in any such election.

(B) DATE OF NOTIFICATION.—

(i) FELONY CONVICTION.—In the case of such an individual who has been convicted of a felony, the notification required under clause (i) 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 felony conviction).
(C) MISDEMEANOR CONVICTION.—In the case of such an individual who has been convicted of a misdemeanor, the notification required under clause (ii) shall be given on the date on which such individual is sentenced by a State court.

(2) FEDERAL NOTIFICATION.—

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

(B) DATE OF NOTIFICATION.—

   (i) FELONY CONVICTION.—In the case of such an individual who has been convicted of a felony, the notification required under clause (i) shall be given—

      (I) in the case of an individual who is sentenced to serve only a term of probation, by the Assistant Direc-
tor for the Office of Probation and
Pretrial Services of the Administrative
Office of the United States Courts on
the date on which the individual is
sentenced; or

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

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

(e) RELATION TO OTHER LAWS.—

(1) STATE LAWS RELATING TO VOTING
RIGHTS.—Nothing in this section shall be construed
to prohibit the States from enacting any State law
which affords the right to vote in any election for
Federal office on terms less restrictive than those es-
tablished by this section.

(2) Certain Federal Acts.—The rights and
remedies established by this section are in addition
to all other rights and remedies provided by law, and
neither rights and remedies established by this Act
shall supersede, restrict, or limit the application of
the Voting Rights Act of 1965 (52 U.S.C. 10301 et
seq.) or the National Voter Registration Act of 1993
(52 U.S.C. 20501 et seq.).

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

(f) Prohibition on Civil Asset Forfeitures.—
Sections 413(a) of the Controlled Substances Act (21
U.S.C. 853(a)) is amended by striking “one year” and in-
serting “one year, except a person possessing a quantity
of controlled substance solely for personal consumption,”.
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SEC. 11. REINVEST FUNDS IN SUPPORTIVE PROGRAMS.

(a) Drug Safety Grant Program.—

(1) Establishment.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish a grant program to support State and local efforts to expand access to substance abuse treatment, support harm-reduction services, and reduce the criminalization of individuals who use drugs by supporting the development or expansion of pre-arrest diversion programs.

(2) Duties.—The grant program shall enhance programs that expand access to substance use treatment, enhance the safety of individuals who use drugs, and reduce the entry of individuals who use drugs into the criminal legal system.

(3) Eligible entities.—

(A) In general.—An eligible entity for a grant under this paragraph shall be an existing agency or organization, whether government or community-based that are engaged in activities designed to promote the health and welfare of people who use drugs, facilitate the voluntary treatment of individuals with substance use disorder, provide assistance to individuals as an alternative to criminal prosecution, or provide al-
ternatives to law enforcement first response services.

(B) EXCEPTION.—A law enforcement entity or program that is led principally by a law enforcement entity are not eligible for grants provided by the program.

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

(A) low barrier substance use disorder treatment that is evidence-informed, trauma-informed, culturally responsive, patient-centered, and non-judgmental (including medication assisted treatment);

(B) harm reduction programs and systems for connecting individuals to harm reduction interventions, including but not limited to overdose prevention education, access to naloxone hydrochloride and sterile syringes, stimulant-specific drug education and outreach, drug-checking services;

(C) peer support and recovery services;

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

(E) pre-arrest diversion programs; and
(F) transitional, supportive, and permanent housing for persons with substance use disorder.

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

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

“(2) Since the enactment of the Comprehensive Drug Abuse Prevention and Control Act of 1970 the United States has expended substantial sums of funding on controlling personal consumption of controlled substances while prohibiting many services that could help ensure the safety of the consumer drug products in common use and safer conditions for individuals who use drugs. The United States has spent over $1 trillion on drug control since enactment of the Act and continues to spend over $47 million annually.

“(3) Drug offenses are the leading cause of arrest in the United States, remaining largely unchanged from 2010–2019, during which time over
10 million arrests were made for drug possession. Black individuals are arrested at rates far higher than their representation in the population and in far greater numbers than individuals in other demographic groups.

“(4) Drug arrests have significant collateral consequences, interfering or denying access to education, employment, housing, child custody, immigration, and public benefits.

“(5) Drug control strategies focused on criminalizing personal use of drugs have not achieved reductions in the availability, prevalence of use, prices, or incidence of drug overdose.

“(6) The criminalization of people who use drugs reduces the availability of resources for evidence-based compassionate drug education, addiction health services, including substance abuse treatment and medication assisted treatment, and other services focused on the health and safety of consumers.

“(7) Federal regulation of controlled substances pursuant to this subchapter shall promote the health, safety and welfare of individuals who use drugs and seek to prevent the harms of criminalizing individual users of drugs.”
SEC. 12. EVIDENCE-BASED DRUG EDUCATION.

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

(b) FEDERAL FUNDS PROHIBITION.—Notwithstanding any other provision of law, no Federal funds may be used by the Attorney General for drug education programming, including public education related to drug use, unless that the Attorney General or designee may provide information to the Secretary of Health and Human Services in support of the Secretary’s responsibilities pursuant to this section.

(c) PERSONNEL AND EQUIPMENT.—Notwithstanding any provision of law, a transfer pursuant to paragraph (1) shall include any personnel and equipment exclusively responsible for the administration of the certain programs.

(d) CERTAIN PROGRAM DEFINED.—The term “certain program” means Federal programs including:

(1) Access to recovery programs.

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

(3) Community transformation grants.

(4) Drug abuse and addiction research programs.
(5) Enhance the safety of children affected by parental methamphetamine or other substance abuse.

(6) Family connection grants.

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

(8) Health improvement for reentering ex-offenders initiative.

(9) Healthy start initiative.

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

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

(12) Mentoring children of prisoners.

(13) National all schedules prescription electronic reporting grant.

(14) Project for assistance in transition from homelessness.

(15) Promoting safe and stable homes.

(16) Strategic prevention framework.

(17) Substance abuse and mental health services projects of regional and national significance.

(18) Urban Indian Health Services.

(e) PUBLIC EDUCATION REGARDING DRUGS AND DRUG USE.—Notwithstanding any other provision of law,
any Federal funds used for designing, administering, or supporting programs to provide education regarding drugs or drug use shall provide scientifically-accurate, culturally and gender competent, trauma-informed, and evidence-based information about drug use and effects that can help persons participating in such a program make healthy choices about substance use and develop personal and social strategies to manage the risks, benefits, and potential harms of substance use.

(f) **Improve Research on Impacts of Drug Criminalization and Enforcement.**—Notwithstanding any other provision of law, and not later than one year after the date of the enactment of this Act, the Attorney General shall transfer programs with respect to drugs and crime to the Administrator of the Substance Abuse and Mental Health Services Administration to expand research on harms of criminalization and to study the effectiveness of non-prohibitionist models of ensuring the health and safety of individuals who use drugs.

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

(a) **Locality Data.**—Not later than one year after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation make publicly available all available data, on a quarterly basis, regarding local enforcement of drug laws, including local arrests for drug
possession and distribution offenses, possession of drug paraphernalia, public use or intoxication, loitering, and all other drug-related violations.

(b) National Incident-based Reporting System.—Not later than one year after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall make available on the internet website of the Federal Bureau of Investigation any data provided by localities to the National Incident-Based Reporting System, including any aggregate data reported regarding the alleged substances and quantities recovered, and demographic data for persons arrested.

c) Department of Justice Reporting.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Attorney General shall collect and make publicly available on the internet website of the Department of Justice information from any unit of local government that receives any Federal funding identifying expenditures on drug offense enforcement.

SEC. 14. LIMITATION OF ELIGIBILITY FOR FUNDS.

Beginning in the first fiscal year that begins after the date that is one year after the date of enactment of this Act, a State or unit of local government may not receive funds under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34
U.S.C. 10151 et seq.) or the under section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10381) for a fiscal year if, on the day before the first day of the fiscal year, the State or unit of local government has a law in effect that establishes criminal penalties for the possession of an amount of a controlled substance consistent with personal use.

SEC. 15. PROHIBITION ON CRIMINAL HISTORY INQUIRIES PRIOR TO CONDITIONAL OFFER FOR FEDERAL EMPLOYMENT.

(a) In General.—Subpart H of part III of title 5, United States Code, is amended by adding at the end the following:

“CHAPTER 92—PROHIBITION ON CRIMINAL HISTORY INQUIRIES PRIOR TO CONDITIONAL OFFER

In this chapter—

“(1) the term ‘agency’ means ‘Executive agency’ as such term is defined in section 105 and in-
“(A) the United States Postal Service and
the Postal Regulatory Commission; and
“(B) the Executive Office of the President;
“(2) the term ‘appointing authority’ means an
employee in the executive branch of the Government
of the United States that has authority to make ap-
pointments to positions in the civil service;
“(3) the term ‘conditional offer’ means an offer
of employment in a position in the civil service that
is conditioned upon the results of a criminal history
inquiry;
“(4) the term ‘criminal history record informa-
tion’—
“(A) except as provided in subparagraphs
(B) and (C), has the meaning given the term in
section 9101(a);
“(B) includes any information described in
the first sentence of section 9101(a)(2) that has
been sealed or expunged pursuant to law; and
“(C) includes information collected by a
criminal justice agency, relating to an act or al-
leged act of juvenile delinquency, that is analo-
gous to criminal history record information (in-
cluding such information that has been sealed
or expunged pursuant to law); and
“(5) the term ‘suspension’ has the meaning given the term in section 7501.

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

“(a) INQUIRIES PRIOR TO CONDITIONAL OFFER.—Except as provided in subsections (b) and (c), an employee of an agency may not request, in oral or written form (including through the Declaration for Federal Employment (Office of Personnel Management Optional Form 306) or any similar successor form, the USAJOBS internet website, or any other electronic means) that an applicant for an appointment to a position in the civil service disclose criminal history record information regarding the applicant before the appointing authority extends a conditional offer to the applicant.

“(b) OTHERWISE REQUIRED BY LAW.—The prohibition under subsection (a) shall not apply with respect to an applicant for a position in the civil service if consideration of criminal history record information prior to a conditional offer with respect to the position is otherwise required by law.

“(c) EXCEPTION FOR CERTAIN POSITIONS.—

“(1) IN GENERAL.—The prohibition under subsection (a) shall not apply with respect to an applicant for an appointment to a position—
“(A) that requires a determination of eligibility described in clause (i), (ii), or (iii) of section 9101(b)(1)(A);

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

“(C) identified by the Director of the Office of Personnel Management in the regulations issued under paragraph (2).

“(2) REGULATIONS.—

“(A) ISSUANCE.—The Director of the Office of Personnel Management shall issue regulations identifying additional positions with respect to which the prohibition under subsection (a) shall not apply, giving due consideration to positions that involve interaction with minors, access to sensitive information, or managing financial transactions.

“(B) COMPLIANCE WITH CIVIL RIGHTS LAWS.—The regulations issued under subparagraph (A) shall—

“(i) be consistent with, and in no way supersede, restrict, or limit the application of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or other relevant Federal civil rights laws; and
“(ii) ensure that all hiring activities conducted pursuant to the regulations are conducted in a manner consistent with relevant Federal civil rights laws.

§ 9203. Agency policies; complaint procedures

“The Director of the Office of Personnel Management shall—

“(1) develop, implement, and publish a policy to assist employees of agencies in complying with section 9202 and the regulations issued pursuant to such section; and

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

§ 9204. Adverse action

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

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

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

“(b) SUBSEQUENT VIOLATIONS.—If the Director of the Office of Personnel Management determines, after notice and an opportunity for a hearing on the record, that an employee that was subject to subsection (a) has committed a subsequent violation of section 9202, the Director may take the following action:

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

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

“(3) For a fourth violation—

“(A) suspension of the employee for a period of more than 7 days; and

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

“(4) For a fifth violation—

“(A) suspension of the employee for a period of more than 7 days; and

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

“(5) For any subsequent violation—
“(A) suspension of the employee for a period of more than 7 days; and

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

§ 9205. Procedures

“(a) APPEALS.—The Director of the Office of Personnel Management shall by rule establish procedures providing for an appeal from any adverse action taken under section 9204 by not later than 30 days after the date of the action.

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

“(1) the procedures under chapter 75; or

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

§ 9206. Rules of construction

“Nothing in this chapter may be construed to—

“(1) authorize any officer or employee of an agency to request the disclosure of information described under subparagraphs (B) and (C) of section 9201(4); or

“(2) create a private right of action for any person.”.
(b) REGULATIONS; EFFECTIVE DATE.—

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

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

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

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

(d) APPLICATION TO LEGISLATIVE BRANCH.—

(1) IN GENERAL.—The Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) is amended—

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

“(12) Section 9202 of title 5, United States Code.”;
(B) by redesignating section 207 (2 U.S.C. 1317) as section 208; and

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

“SEC. 207. RIGHTS AND PROTECTIONS RELATING TO CRIMINAL HISTORY INQUIRIES.

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

“(b) RESTRICTIONS ON CRIMINAL HISTORY INQUIRIES.—

“(1) IN GENERAL.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an employee of an employing office may not request that an applicant for employment as a covered employee disclose criminal history record information if the request would be prohibited under section 9202 of title 5, United States Code, if made by an employee of an agency.

“(B) CONDITIONAL OFFER.—For purposes of applying that section 9202 under subparagraph (A), a reference in that section 9202 to
a conditional offer shall be considered to be an
offer of employment as a covered employee that
is conditioned upon the results of a criminal
history inquiry.

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

“(e) Remedy.—

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

“(2) Process for Obtaining Relief.—An
applicant for employment as a covered employee who
alleges a violation of subsection (b)(1) may rely on
the provisions of title IV (other than section 407 or
408, or a provision of this title that permits a per-
son to obtain a civil action or judicial review), con-
sistent with regulations issued under subsection (d).

“(d) Regulations To Implement Section.—

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

“(2) Parallel with agency regulations.—

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

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

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

(i) by redesignating the item relating to section 207 as the item relating to section 208; and

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

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

(B) Section 62(e)(2) of the Internal Revenue Code of 1986 is amended by striking “or 207” and inserting “207, or 208”.

(e) APPLICATION TO JUDICIAL BRANCH.—

(1) In general.—Section 604 of title 28, United States Code, is amended by adding at the end the following:

“(i) Restrictions on Criminal History Inquiries.—

“(1) Definitions.—In this subsection—

“(A) the terms ‘agency’ and ‘criminal history record information’ have the meanings given those terms in section 9201 of title 5;

“(B) the term ‘covered employee’ means an employee of the judicial branch of the United States Government, other than—
“(i) any judge or justice who is entitled to hold office during good behavior;

“(ii) a United States magistrate judge; or

“(iii) a bankruptcy judge; and

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

“(2) RESTRICTION.—A covered employee may not request that an applicant for employment as a covered employee disclose criminal history record information if the request would be prohibited under section 9202 of title 5 if made by an employee of an agency.

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

“(4) ADVERSE ACTION.—

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

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

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

“(5) REGULATIONS TO BE ISSUED.—

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

“(B) PARALLEL WITH AGENCY REGULA-
TIONS.—The regulations issued under subpara-
graph (A) shall be the same as substantive reg-
ulations promulgated by the Director of the Of-

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

“(6) Effective date.—Paragraphs (1) through (4) shall take effect on the date on which section 9202 of title 5 applies with respect to agencies.”

SEC. 16. PROHIBITION ON CRIMINAL HISTORY INQUIRIES BY CONTRACTORS PRIOR TO CONDITIONAL OFFER.

(a) Civilian Agency Contracts.—

(1) In general.—Chapter 47 of title 41, United States Code, is amended by adding at the end the following new section:

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

“(a) Limitation on Criminal History Inquiries.—

“(1) In general.—Except as provided in paragraphs (2) and (3), an executive agency—
“(A) may not require that an individual or
sole proprietor who submits a bid for a contract
to disclose criminal history record information
regarding that individual or sole proprietor be-
fore determining the apparent awardee; and

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

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

“(3) EXCEPTION FOR CERTAIN POSITIONS.—

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

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

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

“(B) REGULATIONS.—

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

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

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

“(II) ensure that all hiring activities conducted pursuant to the regulations are conducted in a manner consistent with relevant Federal civil rights laws.

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

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

“(1) FIRST VIOLATION.—If the head of an executive agency determines that a contractor has violated subsection (a)(1)(B), such head shall—

“(A) notify the contractor;

“(B) provide 30 days after such notification for the contractor to appeal the determination; and
“(C) issue a written warning to the contractor that includes a description of the violation and the additional remedies that may apply for subsequent violations.

“(2) SUBSEQUENT VIOLATION.—If the head of an executive agency determines that a contractor that was subject to paragraph (1) has committed a subsequent violation of subsection (a)(1)(B), such head shall notify the contractor, shall provide 30 days after such notification for the contractor to appeal the determination, and, in consultation with the relevant Federal agencies, may take actions, depending on the severity of the infraction and the contractor’s history of violations, including—

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

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

“(C) suspending payment under the contract for which the applicant was being considered until the contractor demonstrates compliance with this section.

“(d) DEFINITIONS.—In this section:
“(1) CONDITIONAL OFFER.—The term ‘conditional offer’ means an offer of employment for a position related to work under a contract that is conditioned upon the results of a criminal history inquiry.

“(2) CRIMINAL HISTORY RECORD INFORMATION.—The term ‘criminal history record information’ has the meaning given that term in section 9201 of title 5.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 41, United States Code, is amended by adding at the end the following new item:

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

(3) EFFECTIVE DATE.—Section 4714 of title 41, United States Code, as added by paragraph (1), shall apply with respect to contracts awarded pursuant to solicitations issued after the effective date described in section 2(b)(2) of this Act.

(b) DEFENSE CONTRACTS.—

(1) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2338 the following new section:
§ 2339. Prohibition on criminal history inquiries by contractors prior to conditional offer

(a) LIMITATION ON CRIMINAL HISTORY INQUIRIES.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the head of an agency—

“(A) may not require that an individual or sole proprietor who submits a bid for a contract to disclose criminal history record information regarding that individual or sole proprietor before determining the apparent awardee; and

“(B) shall require as a condition of receiving a Federal contract and receiving payments under such contract that the contractor may not verbally or through written form request the disclosure of criminal history record information regarding an applicant for a position related to work under such contract before such contractor extends a conditional offer to the applicant.

“(2) OTHERWISE REQUIRED BY LAW.—The prohibition under paragraph (1) does not apply with respect to a contract if consideration of criminal history record information prior to a conditional offer with respect to the position is otherwise required by law.
“(3) **EXCEPTION FOR CERTAIN POSITIONS.**—

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

“(i) a contract that requires an individual hired under the contract to access classified information or to have sensitive law enforcement or national security duties; or

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

“(B) **REGULATIONS.**—

“(i) **ISSUANCE.**—Not later than 16 months after the date of enactment of the Fair Chance to Compete for Jobs Act of 2019, the Secretary of Defense, in consultation with the Administrator of General Services, shall issue regulations identifying additional positions with respect to which the prohibition under paragraph (1) shall not apply, giving due consideration to positions that involve interaction with minors, access to sensitive information, or managing financial transactions.
“(ii) COMPLIANCE WITH CIVIL RIGHTS LAWS.—The regulations issued under clause (i) shall—

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

“(II) ensure that all hiring activities conducted pursuant to the regulations are conducted in a manner consistent with relevant Federal civil rights laws.

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

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

“(1) FIRST VIOLATION.—If the Secretary of Defense determines that a contractor has violated subsection (a)(1)(B), the Secretary shall—
“(A) notify the contractor;

“(B) provide 30 days after such notification for the contractor to appeal the determination; and

“(C) issue a written warning to the contractor that includes a description of the violation and the additional remedies that may apply for subsequent violations.

“(2) SUBSEQUENT VIOLATIONS.—If the Secretary of Defense determines that a contractor that was subject to paragraph (1) has committed a subsequent violation of subsection (a)(1)(B), the Secretary shall notify the contractor, shall provide 30 days after such notification for the contractor to appeal the determination, and, in consultation with the relevant Federal agencies, may take actions, depending on the severity of the infraction and the contractor’s history of violations, including—

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

“(B) requiring that the contractor respond within 30 days affirming that the contractor is taking steps to comply with this section; and
“(C) suspending payment under the contract for which the applicant was being considered until the contractor demonstrates compliance with this section.

“(d) DEFINITIONS.—In this section:

“(1) CONDITIONAL OFFER.—The term ‘conditional offer’ means an offer of employment for a position related to work under a contract that is conditioned upon the results of a criminal history inquiry.

“(2) CRIMINAL HISTORY RECORD INFORMATION.—The term ‘criminal history record information’ has the meaning given that term in section 9201 of title 5.”.

(2) EFFECTIVE DATE.—Section 2339(a) of title 10, United States Code, as added by paragraph (1), shall apply with respect to contracts awarded pursuant to solicitations issued after the effective date described in section 2(b)(2) of this Act.

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

“2339. Prohibition on criminal history inquiries by contractors prior to conditional offer.”.

(c) REVISIONS TO FEDERAL ACQUISITION REGULATIONS.—
(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation to implement section 4714 of title 41, United States Code, and section 2339 of title 10, United States Code, as added by this section.

(2) CONSISTENCY WITH OFFICE OF PERSONNEL MANAGEMENT REGULATIONS.—The Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation under paragraph (1) to be consistent with the regulations issued by the Director of the Office of Personnel Management under section 2(b)(1) to the maximum extent practicable. The Council shall include together with such revision an explanation of any substantive modification of the Office of Personnel Management regulations, including an explanation of how such modification will more effectively implement the rights and protections under this section.

SEC. 17. REPORT ON EMPLOYMENT OF INDIVIDUALS FORMERLY INCARCERATED IN FEDERAL PRISONS.

(a) DEFINITION.—In this section, the term “covered individual”—
(1) means an individual who has completed a term of imprisonment in a Federal prison for a Federal criminal offense; and

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

(b) Study and Report Required.—The Director of the Bureau of Justice Statistics, in coordination with the Director of the Bureau of the Census, shall—

(1) not later than 180 days after the date of 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.

SEC. 18. DETERMINATION OF BUDGETARY EFFECTS.

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

SEC. 19. DEFINITIONS.

In this Act:

(1) CORRECTIONAL INSTITUTION OR FACILITY.—The term “correctional institution or facility” means any prison, penitentiary, jail, or other institution or facility for the confinement of individuals convicted of criminal offenses, whether publicly or privately operated, except that such term does not
include any residential community treatment center
(or similar public or private facility).

(2) Criminal Justice Sentence.—The term
“criminal justice sentence” means any requirement
imposed pursuant to a sentence, including incarcer-
ation, supervised release, parole, or probation.

(3) Election.—The term “election” means—
(A) a general, special, primary, or runoff
election;
(B) a convention or caucus of a political
party held to nominate a candidate;
(C) a primary election held for the selec-
tion of delegates to a national nominating con-
vention of a political party; or
(D) a primary election held for the expres-
sion of a preference for the nomination of per-
sons for election to the office of President.

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

(5) Federal Office.—The term “Federal of-

ice” means the office of President or Vice President
of the United States, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(6) **INDIGENOUS COMMUNITIES.**—The term “Indigenous communities” includes each of the Federally recognized Indian tribes.

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

(A) the individual’s freedom of movement;

(B) the payment of damages by the individual;

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

(D) supervision of the individual by an officer of the court.