

115TH CONGRESS
1ST SESSION

S. 827

To provide for the sealing or expungement of records relating to Federal nonviolent criminal offenses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, APRIL 4), 2017

Mr. PAUL (for himself and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the sealing or expungement of records relating to Federal nonviolent criminal offenses, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Record Expungement Designed to Enhance Employment
6 Act of 2017” or the “REDEEM Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Sealing of criminal records.
- Sec. 3. Juvenile sealing and expungement.

- Sec. 4. Study and report on cost savings from sealing and expungement provisions.
- Sec. 5. TANF assistance and SNAP benefits.
- Sec. 6. State incentives.
- Sec. 7. Gender equality in Federal juvenile delinquency proceedings.
- Sec. 8. Ensuring accuracy in the FBI background check system.
- Sec. 9. Report on statutory and regulatory restrictions and disqualifications based on criminal records.

1 **SEC. 2. SEALING OF CRIMINAL RECORDS.**

2 (a) IN GENERAL.—Chapter 229 of title 18, United
 3 States Code, is amended by adding at the end the fol-
 4 lowing:

5 **“Subchapter D—Sealing of Criminal Records**

- “Sec.
 “3631. Definitions; eligible individuals.
 “3632. Sealing petition.
 “3633. Effect of sealing order.

6 **“§ 3631. Definitions; eligible individuals**

7 “(a) DEFINITIONS.—In this subchapter—
 8 “(1) the term ‘covered nonviolent offense’
 9 means a Federal criminal offense that is not—
 10 “(A) a crime of violence (as that term is
 11 defined in section 16); or
 12 “(B) a sex offense (as that term is defined
 13 in section 111 of the Sex Offender Registration
 14 and Notification Act (42 U.S.C. 16911));
 15 “(2) the term ‘eligible individual’ means an in-
 16 dividual who—
 17 “(A) has been arrested for or convicted of
 18 a covered nonviolent offense;

1 “(B) in the case of a conviction described
2 in subparagraph (A), has fulfilled each require-
3 ment of the sentence for the covered nonviolent
4 offense, including—

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

7 “(ii) satisfying each condition of im-
8 prisonment, probation, or supervised re-
9 lease;

10 “(C) subject to subsection (b), has not
11 been convicted of more than 2 felonies that are
12 covered nonviolent offenses, including any such
13 convictions that have been sealed; and

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

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

18 “(4) the term ‘protected information’, with re-
19 spect to a covered nonviolent offense, means any ref-
20 erence to—

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

23 “(B) the institution of criminal pro-
24 ceedings against an individual for the offense;

25 or

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

3 “(5) the term ‘seal’—

4 “(A) means—

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

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

12 “(B) has the effect described in section
13 3633, including—

14 “(i) the right to treat the offense to
15 which a sealed record relates, and any ar-
16 rest, criminal proceeding, conviction, or
17 sentence relating to the offense, as if it
18 never occurred; and

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

22 “(6) the term ‘sealing hearing’ means a hearing
23 held under section 3632(b)(2); and

24 “(7) the term ‘sealing petition’ means a petition
25 for a sealing order filed under section 3632(a).

1 “(b) ELIGIBLE INDIVIDUALS.—

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

5 “(A) multiple convictions shall be deemed
6 to be 1 conviction if the convictions result from
7 or relate to—

8 “(i) the same act; or

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

10 and

11 “(B) subject to paragraph (2), multiple
12 convictions, not to exceed 3, that do not result
13 from or relate to the same act or acts com-
14 mitted at the same time shall be deemed to be
15 1 conviction if the convictions—

16 “(i) result from or relate to—

17 “(I) the same—

18 “(aa) indictment, informa-
19 tion, or complaint;

20 “(bb) plea of guilty; or

21 “(cc) official proceeding; or

22 “(II) related criminal acts that
23 were committed within a 3-month pe-
24 riod; or

1 “(ii) are determined to be directly re-
2 lated to addiction or a substance use dis-
3 order.

4 “(2) DISCRETION OF COURT.—

5 “(A) IN GENERAL.—A court reviewing a
6 sealing petition may determine that it is not in
7 the public interest to deem multiple convictions
8 described in paragraph (1)(B) to be 1 convic-
9 tion.

10 “(B) REASONING.—If a court makes a de-
11 termination under subparagraph (A), the court
12 shall make available to the public the reasoning
13 for the determination.

14 “(C) REPORTING.—Not later than 2 years
15 after the date of enactment of this subchapter,
16 and each year thereafter, each district court of
17 the United States shall submit to the appro-
18 priate committees of Congress a report that de-
19 scribes the exercise of discretion by the court
20 under subparagraph (B), with all relevant data
21 disaggregated by race, ethnicity, gender, and
22 the nature of the offense.

23 **“§ 3632. Sealing petition**

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

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

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

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

15 “(B) for an eligible individual not de-
16 scribed in subparagraph (A), the date on which
17 the case relating to the covered nonviolent of-
18 fense is disposed of.

19 “(3) NOTICE OF OPPORTUNITY TO FILE PETI-
20 TION.—

21 “(A) CONVICTED INDIVIDUALS.—

22 “(i) IN GENERAL.—If an individual is
23 convicted of a covered nonviolent offense
24 and will potentially be eligible to file a
25 sealing petition with respect to the offense

1 upon fulfilling each requirement of the sen-
 2 tence for the offense as described in sec-
 3 tion 3631(a)(2)(B), the court in which the
 4 individual is convicted shall, in writing, in-
 5 form the individual, on each date described
 6 in clause (ii), of—

7 “(I) that potential eligibility;

8 “(II) the necessary procedures
 9 for filing the sealing petition; and

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

15 “(ii) DATES.—The dates described in
 16 this clause are—

17 “(I) the date on which the indi-
 18 vidual is convicted; and

19 “(II) the date on which the indi-
 20 vidual has completed every term of
 21 imprisonment, probation, or super-
 22 vised release relating to the offense.

23 “(B) INDIVIDUALS NOT CONVICTED.—

24 “(i) ARREST ONLY.—If an individual
 25 is arrested for a covered nonviolent of-

1 fense, criminal proceedings are not insti-
2 tuted against the individual for the offense,
3 and the individual is potentially eligible to
4 file a sealing petition with respect to the
5 offense, on the date on which the case re-
6 lating to the offense is disposed of, the ar-
7 resting authority shall, in writing, inform
8 the individual of—

9 “(I) that potential eligibility;

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

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

17 “(ii) COURT PROCEEDINGS.—If an in-
18 dividual is arrested for a covered non-
19 violent offense, criminal proceedings are in-
20 stituted against the individual for the of-
21 fense, the individual is not convicted of the
22 offense, and the individual is potentially el-
23 igible to file a sealing petition with respect
24 to the offense, on the date on which the
25 case relating to the offense is disposed of,

1 the court in which the criminal proceedings
2 take place shall, in writing, inform the in-
3 dividual of—

4 “(I) that potential eligibility;

5 “(II) the necessary procedures
6 for filing the sealing petition; and

7 “(III) the benefits of sealing a
8 record, including protection from civil
9 and criminal perjury, false swearing,
10 and false statement laws with respect
11 to the record.

12 “(b) PROCEDURES.—

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

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

22 “(B) upon the request of the petitioner, to
23 any other individual that the petitioner deter-
24 mines may testify as to the—

1 “(i) conduct of the petitioner since the
2 date of the offense or arrest; or

3 “(ii) reasons that the sealing order
4 should be entered.

5 “(2) HEARING.—

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

9 “(i) except as provided in subpara-
10 graph (D), conduct a hearing in accord-
11 ance with subparagraph (B); and

12 “(ii) determine whether to enter a
13 sealing order for the individual in accord-
14 ance with paragraph (3).

15 “(B) OPPORTUNITY TO TESTIFY AND
16 OFFER EVIDENCE.—

17 “(i) PETITIONER.—The petitioner
18 may testify or offer evidence at the sealing
19 hearing in support of sealing.

20 “(ii) PROSECUTOR.—The office of a
21 United States attorney that receives notice
22 under paragraph (1)(A) may send a rep-
23 resentative to testify or offer evidence at
24 the sealing hearing in support of or
25 against sealing.

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

6 “(C) MAGISTRATE JUDGES.—A magistrate
7 judge may preside over a hearing under this
8 paragraph.

9 “(D) WAIVER OF HEARING.—If the peti-
10 tioner and the United States attorney that re-
11 ceives notice under paragraph (1)(A) so agree,
12 the court shall make a determination under
13 paragraph (3) without a hearing.

14 “(3) BASIS FOR DECISION.—

15 “(A) IN GENERAL.—In determining wheth-
16 er to enter a sealing order with respect to pro-
17 tected information relating to a covered non-
18 violent offense, the court—

19 “(i) shall consider—

20 “(I) the petition and any docu-
21 ments in the possession of the court;
22 and

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

1 “(ii) may not consider any non-Fed-
2 eral nonviolent crimes for which the peti-
3 tioner has been arrested or proceeded
4 against, or of which the petitioner has been
5 convicted; and

6 “(iii) shall balance—

7 “(I)(aa) the interest of public
8 knowledge and safety; and

9 “(bb) the legitimate interest, if
10 any, of the Government in maintain-
11 ing the accessibility of the protected
12 information, including any potential
13 impact of sealing the protected infor-
14 mation on Federal licensure, permit,
15 or employment restrictions; against

16 “(II)(aa) the conduct and dem-
17 onstrated desire of the petitioner to be
18 rehabilitated and positively contribute
19 to the community; and

20 “(bb) the interest of the peti-
21 tioner in having the protected infor-
22 mation sealed, including the harm of
23 the protected information to the abil-
24 ity of the petitioner to secure and
25 maintain employment.

1 “(B) BURDEN ON GOVERNMENT.—The
2 burden shall be on the Government to show
3 that the interests under subclause (I) of sub-
4 paragraph (A)(iii) outweigh the interests of the
5 petitioner under subclause (II) of that subpara-
6 graph.

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

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

17 “(6) FEE WAIVER.—The Director of the Ad-
18 ministrative Office of the United States Courts shall
19 by regulation establish a minimally burdensome
20 process under which indigent petitioners may obtain
21 a waiver of any fee for filing a sealing petition.

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

1 “(A) describes—

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

4 “(ii) the number of instances in which
5 the office of a United States attorney sup-
6 ported or opposed a sealing petition;

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

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

13 “(8) PUBLIC DEFENDER ELIGIBILITY.—

14 “(A) IN GENERAL.—The district court
15 may, in its discretion, appoint counsel in ac-
16 cordance with the plan of the district court in
17 operation under section 3006A to represent a
18 petitioner for purposes of this section.

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

22 “(i) the anticipated complexity of the
23 sealing hearing, including the number and
24 type of witnesses called to advocate against

1 the sealing of the protected information of
2 the petitioner; and

3 “(ii) the potential for adverse testi-
4 mony by a victim or a representative of the
5 office of the United States attorney.

6 **“§ 3633. Effect of sealing order**

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

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

16 “(1) send a copy of the sealing order to each
17 entity or person known to the court that possesses
18 a record containing protected information that re-
19 lates to the offense, including each—

20 “(A) law enforcement agency; and

21 “(B) public or private correctional or de-
22 tention facility;

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

1 “(A) seal the record in accordance with
2 this section; and

3 “(B) submit a written certification to the
4 court, under penalty of perjury, that the entity
5 or person has sealed each paper and electronic
6 copy of the record;

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

9 “(4) after receiving a written certification from
10 each entity or person under paragraph (2)(B), notify
11 the petitioner that each entity or person described in
12 paragraph (1) has sealed each paper and electronic
13 copy of the record.

14 “(c) PROTECTION FROM PERJURY LAWS.—Except as
15 provided in subsection (f)(3)(A), a petitioner with respect
16 to whom a sealing order has been entered for a covered
17 nonviolent offense shall not be subject to prosecution
18 under any civil or criminal provision of Federal or State
19 law relating to perjury, false swearing, or making a false
20 statement, including section 1001, 1621, 1622, or 1623,
21 for failing to recite or acknowledge any protected informa-
22 tion with respect to the offense or respond to any inquiry
23 made of the petitioner, relating to the protected informa-
24 tion, for any purpose.

1 “(d) ATTORNEY GENERAL NONPUBLIC RECORDS.—

2 The Attorney General—

3 “(1) shall maintain a nonpublic record of all
4 protected information that has been sealed under
5 this subchapter; and

6 “(2) may access or use protected information
7 only—

8 “(A) for legitimate investigative purposes;

9 “(B) in defense of any civil suit arising out
10 of the facts of the arrest or subsequent pro-
11 ceedings; or

12 “(C) if the Attorney General determines
13 that disclosure is necessary to serve the inter-
14 ests of justice, public safety, or national secu-
15 rity.

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

19 “(1) to determine whether the individual to
20 whom the record relates is eligible for a first-time-
21 offender diversion program;

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

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

4 “(f) PROHIBITION ON DISCLOSURE.—

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

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

13 “(3) EXCEPTIONS.—

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

20 “(i) law enforcement employment; or

21 “(ii) any position that a Federal agen-
22 cy designates as a—

23 “(I) national security position; or

24 “(II) high-risk, public trust posi-
25 tion.

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

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

15 “(i) criminal proceeding; or

16 “(ii) juvenile delinquency proceeding.

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

21 (b) APPLICABILITY.—The right to file a sealing peti-
22 tion under section 3632(a) of title 18, United States Code,
23 as added by subsection (a), shall apply with respect to a
24 covered nonviolent offense (as defined in section 3631(a)
25 of such title) that is committed or alleged to have been

1 committed before, on, or after the date of enactment of
2 this Act.

3 (c) **TRANSITION PERIOD FOR HEARINGS DEAD-**
4 **LINE.**—During the 1-year period beginning on the date
5 of enactment of this Act, section 3632(b)(2)(A) of title
6 18, United States Code, as added by subsection (a), shall
7 be applied by substituting “1 year” for “180 days”.

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

“D. Sealing of Criminal Records 3631”.

12 **SEC. 3. JUVENILE SEALING AND EXPUNGEMENT.**

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

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

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

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

1 **“§ 5031. Definitions**

2 “In this chapter—

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

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

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

14 “(4) the term ‘expunge’—

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

19 “(B) has the effect described in section
20 5044(c), including—

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

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

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

7 “(6) the term ‘expungement petition’ means a
8 petition for expungement filed under section
9 5044(b);

10 “(7) the term ‘juvenile’ means—

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

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

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

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

1 “(A) a violent crime (as defined in section
2 103 of the Juvenile Justice and Delinquency
3 Prevention Act of 1974 (42 U.S.C. 5603)); or

4 “(B) a sex offense (as that term is defined
5 in section 111 of the Sex Offender Registration
6 and Notification Act (42 U.S.C. 16911));

7 “(10) the term ‘juvenile record’—

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

13 “(B) includes—

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

18 “(ii) a social record, including—

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

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

24 “(III) a medical record;

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

3 “(V) a birth certificate;

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

7 “(VII) a detention record;

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

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

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

19 “(I) fingerprints;

20 “(II) a DNA sample; or

21 “(III) a photograph; and

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

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

1 “(12) the term ‘seal’—

2 “(A) means—

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

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

10 “(B) has the effect described in section
11 5043(c), including—

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

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

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

23 “(14) the term ‘sealing petition’ means a peti-
24 tion for a sealing order filed under section
25 5043(b).”.

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

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

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

12 (d) SEALING; EXPUNGEMENT.—

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

16 **“§ 5043. Sealing**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(2) PROCEDURES.—

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

7 “(i) to the Attorney General; and

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

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

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

15 “(B) HEARING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(vi) the disposition of the case;

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

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

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

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

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

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

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

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

25 “(i) describes—

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

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

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

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

13 “(H) PUBLIC DEFENDER ELIGIBILITY.—

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

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

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

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

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

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

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

20 “(c) EFFECT OF SEALING ORDER.—

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

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

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

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

11 “(i) law enforcement agency; and

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

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

17 “(i) seal the record; and

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

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

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

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

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

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

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

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

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

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

7 “(5) PROHIBITION ON DISCLOSURE.—

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

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

17 “(C) EXCEPTIONS.—

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

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

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

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

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

22 “(I) criminal proceeding; or

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

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

6 **“§ 5044. Expungement**

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

9 “(1) ATTORNEY GENERAL MOTION.—

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

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

1 that would have had jurisdiction of the pro-
2 ceeding requesting that each juvenile record re-
3 lating to the arrest be expunged.

4 “(C) EXPUNGEMENT ORDER.—Upon the
5 filing of a motion in a district court of the
6 United States with respect to a juvenile non-
7 violent offense under subparagraph (A) or an
8 arrest for an offense under subparagraph (B),
9 the court shall grant the motion and order that
10 each juvenile record relating to the offense or
11 arrest, as applicable, be expunged.

12 “(2) DISMISSED CASES.—If a district court of
13 the United States dismisses an information with re-
14 spect to a juvenile under this subchapter or finds a
15 juvenile not to be delinquent in a juvenile delin-
16 quency proceeding under this subchapter, the court
17 shall concurrently order that each juvenile record re-
18 lating to the applicable proceeding be expunged.

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

23 “(4) NOTICE OF AUTOMATIC EXPUNGEMENT.—
24 A court that orders the expungement of a juvenile
25 record of a person under paragraph (1)(C) or (2)

1 shall, in writing, inform the person of the
2 expungement and the benefits of expunging the
3 record, including protection from civil and criminal
4 perjury, false swearing, and false statement laws
5 with respect to the record.

6 “(b) PETITIONING FOR EXPUNGEMENT OF NON-
7 VIOLENT OFFENSES.—

8 “(1) IN GENERAL.—A person who is adjudged
9 delinquent under this chapter for a juvenile non-
10 violent offense committed on or after the date on
11 which the person attained 15 years of age may peti-
12 tion the court in which the proceeding took place to
13 order the expungement of the juvenile record that
14 relates to the offense.

15 “(2) PROCEDURES.—

16 “(A) NOTIFICATION OF PROSECUTOR AND
17 VICTIMS.—If a person files an expungement pe-
18 tition with respect to a juvenile nonviolent of-
19 fense, the court in which the petition is filed
20 shall provide notice of the petition—

21 “(i) to the Attorney General; and

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

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

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

5 “(B) HEARING.—

6 “(i) IN GENERAL.—Not later than
7 180 days after the date on which a person
8 files an expungement petition, the court
9 shall—

10 “(I) except as provided in clause
11 (iii), conduct a hearing in accordance
12 with clause (ii); and

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

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

18 “(I) PETITIONER.—The peti-
19 tioner may testify or offer evidence at
20 the expungement hearing in support
21 of expungement.

22 “(II) PROSECUTOR.—The Attor-
23 ney General may send a representa-
24 tive to testify or offer evidence at the

1 expungement hearing in support of or
2 against expungement.

3 “(III) OTHER INDIVIDUALS.—An
4 individual who receives notice under
5 subparagraph (A)(ii) may testify or
6 offer evidence at the expungement
7 hearing as to the issues described in
8 subclauses (I) and (II) of that sub-
9 paragraph.

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

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

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

18 “(iii) the best interests of the peti-
19 tioner;

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

23 “(v) the nature of the juvenile non-
24 violent offense;

25 “(vi) the disposition of the case;

1 “(vii) the manner in which the peti-
2 tioner participated in any court-ordered re-
3 habilitative programming or supervised
4 services;

5 “(viii) the length of the time period
6 during which the petitioner has been with-
7 out contact with any court or any law en-
8 forcement agency;

9 “(ix) whether the petitioner has had
10 any criminal or juvenile delinquency in-
11 volvement since the disposition of the juve-
12 nile delinquency proceeding; and

13 “(x) the adverse consequences the pe-
14 titioner may suffer if the petition is not
15 granted.

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

21 “(E) UNIVERSAL FORM.—The Director of
22 the Administrative Office of the United States
23 Courts shall create a universal form, available
24 over the Internet and in paper form, that an in-

1 dividual may use to file an expungement peti-
2 tion.

3 “(F) NO FEE FOR EXPUNGEMENT.—There
4 shall be no cost for filing an expungement peti-
5 tion.

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

10 “(i) describes—

11 “(I) the number of expungement
12 petitions granted and denied under
13 this subsection; and

14 “(II) the number of instances in
15 which the Attorney General supported
16 or opposed an expungement petition;

17 “(ii) includes any supporting data
18 that the court determines relevant and that
19 does not name any petitioner; and

20 “(iii) disaggregates all relevant data
21 by race, ethnicity, gender, and the nature
22 of the offense.

23 “(H) PUBLIC DEFENDER ELIGIBILITY.—

24 “(i) PETITIONERS UNDER AGE 18.—
25 The district court shall appoint counsel in

1 accordance with the plan of the district
2 court in operation under section 3006A to
3 represent a petitioner for purposes of this
4 subsection if the petitioner is less than 18
5 years of age.

6 “(ii) PETITIONERS AGE 18 AND
7 OLDER.—

8 “(I) DISCRETION OF COURT.—In
9 the case of a petitioner who not less
10 than 18 years of age, the district
11 court may, in its discretion, appoint
12 counsel in accordance with the plan of
13 the district court in operation under
14 section 3006A to represent the peti-
15 tioner for purposes of this subsection.

16 “(II) CONSIDERATIONS.—In de-
17 termining whether to appoint counsel
18 under subclause (I), the court shall
19 consider—

20 “(aa) the anticipated com-
21 plexity of the expungement hear-
22 ing, including the number and
23 type of witnesses called to advo-
24 cate against the expungement of
25 the records of the petitioner; and

1 “(bb) the potential for ad-
2 verse testimony by a victim or a
3 representative of the Attorney
4 General.

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

6 “(1) IN GENERAL.—Except as provided in this
7 subsection, if a court orders the expungement of a
8 juvenile record under subsection (a) or (b) with re-
9 spect to a juvenile nonviolent offense—

10 “(A) the offense and any arrest, juvenile
11 delinquency proceeding, adjudication, or other
12 result of such proceeding relating to the offense
13 shall be treated as if it never occurred; and

14 “(B) the person to whom the record per-
15 tains shall not be required to disclose the exist-
16 ence of the record.

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

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

25 “(i) law enforcement agency; and

1 “(ii) public or private correctional or
2 detention facility;

3 “(B) in the expungement order, require
4 each entity or person described in subparagraph
5 (A) to—

6 “(i) destroy the record; and

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

11 “(C) destroy each paper and electronic
12 copy of the record in the possession of the
13 court; and

14 “(D) after receiving a written certification
15 from each entity or person under subparagraph
16 (B)(ii), notify the petitioner that each entity or
17 person described in subparagraph (A) has de-
18 stroyed each paper and electronic copy of the
19 record.

20 “(3) REPLY TO INQUIRIES.—In the case of an
21 inquiry relating to a juvenile record of a person that
22 is expunged under this section, the court in which
23 the proceeding took place, each law enforcement offi-
24 cer, any agency that provided treatment or rehabili-
25 tation services to the person, and the person (except

1 as provided in paragraph (6)) shall reply to the in-
2 quiry that no such juvenile record exists.

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

15 “(5) CIVIL ACTIONS.—

16 “(A) IN GENERAL.—If a person whose ju-
17 venile record is expunged under this section
18 brings an action that might be defended with
19 the contents of the record, there shall be a re-
20 buttable presumption that the defendant has a
21 complete defense to the action.

22 “(B) SHOWING BY PLAINTIFF.—In an ac-
23 tion described in subparagraph (A), the plaintiff
24 may rebut the presumption of a complete de-
25 fense by showing that the contents of the ex-

1 punged record would not prevent the defendant
2 from being liable.

3 “(C) DUTY TO TESTIFY AS TO EXISTENCE
4 OF RECORD.—The court in which an action de-
5 scribed in subparagraph (A) is filed may re-
6 quire the plaintiff to state under oath whether
7 the plaintiff had a juvenile record and whether
8 the record was expunged.

9 “(D) PROOF OF EXISTENCE OF JUVENILE
10 RECORD.—If the plaintiff in an action described
11 in subparagraph (A) denies the existence of a
12 juvenile record, the defendant may prove the ex-
13 istence of the record in any manner compatible
14 with the applicable laws of evidence.

15 “(6) CRIMINAL AND JUVENILE PRO-
16 CEEDINGS.—A prosecutor may disclose information
17 from a juvenile record expunged under this section
18 if the information pertains to a potential witness in
19 a Federal or State—

20 “(A) criminal proceeding; or

21 “(B) juvenile delinquency proceeding.

22 “(7) AUTHORIZATION FOR PERSON TO DIS-
23 CLOSE OWN RECORD.—A person who is the subject
24 of a juvenile record expunged under this section may
25 choose to disclose the record.”.

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

“5043. Sealing.

“5044. Expungement.”.

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

12 (e) JUVENILE SOLITARY CONFINEMENT.—

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

16 **“§ 5045. Juvenile solitary confinement**

17 “(a) DEFINITIONS.—In this section—

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

19 “(A) a juvenile who—

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

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

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

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

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

8 “(B) detained prior to disposition or con-
9 viction; and

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

13 “(b) PROHIBITION ON ROOM CONFINEMENT IN JU-
14 VENILE FACILITIES.—

15 “(1) IN GENERAL.—The use of room confine-
16 ment at a juvenile facility for discipline, punishment,
17 retaliation, or any reason other than as a temporary
18 response to a covered juvenile’s behavior that poses
19 a serious and immediate risk of physical harm to
20 any individual, including the covered juvenile, is pro-
21 hibited.

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

23 “(A) REQUIREMENT TO USE LEAST RE-
24 STRICTIVE TECHNIQUES.—

1 “(i) IN GENERAL.—Before a staff
2 member of a juvenile facility places a cov-
3 ered juvenile in room confinement, the
4 staff member shall attempt to use less re-
5 strictive techniques, including—

6 “(I) talking with the covered ju-
7 venile in an attempt to de-escalate the
8 situation; and

9 “(II) permitting a qualified men-
10 tal health professional, or a staff
11 member who has received training in
12 de-escalation techniques and trauma-
13 informed care, to talk to the covered
14 juvenile.

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

21 “(I) explain to the covered juve-
22 nile the reasons for the room confine-
23 ment; and

1 “(II) inform the covered juvenile
2 that release from room confinement
3 will occur—

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

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

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

19 “(i) immediately when the covered ju-
20 venile has sufficiently gained control so as
21 to no longer engage in behavior that
22 threatens serious and immediate risk of
23 physical harm to himself or herself, or to
24 others; or

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

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

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

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

21 “(i) the covered juvenile shall be
22 transferred immediately to another juvenile
23 facility or internal location where services
24 can be provided to the covered juvenile
25 without relying on room confinement; or

1 “(ii) if a qualified mental health pro-
2 fessional believes the level of crisis service
3 needed is not currently available, a staff
4 member of the juvenile facility shall imme-
5 diately transport the juvenile to—

6 “(I) an emergency medical facil-
7 ity; or

8 “(II) an equivalent location that
9 can meet the needs of the covered ju-
10 venile.

11 “(D) ACTION BEFORE EXPIRATION OF
12 TIME LIMIT.—Nothing in subparagraph (C)
13 shall be construed to prohibit an action de-
14 scribed in clause (i) or (ii) of that subparagraph
15 from being taken before the applicable max-
16 imum period of confinement under subclause (I)
17 or (II) of subparagraph (B)(ii) has expired.

18 “(E) CONDITIONS.—A room used for room
19 confinement for a juvenile shall—

20 “(i) have not less than 80 square feet
21 of floor space;

22 “(ii) have adequate lighting, heating
23 or cooling (as applicable), and ventilation
24 for the comfort of the juvenile;

1 “(iii) be suicide-resistant and protru-
2 sion-free; and

3 “(iv) have access to clean potable
4 water, toilet facilities, and hygiene sup-
5 plies.

6 “(F) NOTICE.—

7 “(i) USE OF ROOM CONFINEMENT.—
8 Not later than 1 business day after the
9 date on which a juvenile facility places a
10 covered juvenile in room confinement, the
11 juvenile facility shall provide notice to the
12 attorney of record for the juvenile.

13 “(ii) TRANSFER.—Not later than 24
14 hours after a covered juvenile is trans-
15 ferred from a juvenile facility to another
16 location, the juvenile facility shall provide
17 notice to—

18 “(I) the attorney of record for
19 the juvenile; and

20 “(II) an authorized parent or
21 guardian of the juvenile.

22 “(G) SPIRIT AND PURPOSE.—The use of
23 consecutive periods of room confinement to
24 evade the spirit and purpose of this subsection
25 shall be prohibited.

1 “(c) STUDY AND REPORT.—Not later than 2 years
2 after the date of enactment of this section, and each year
3 thereafter, the Attorney General shall submit to Congress
4 a report that—

5 “(1) contains a detailed description of the type
6 of physical force, restraints, and room confinement
7 used at juvenile facilities;

8 “(2) describes the number of instances in which
9 physical force, restraints, or room confinement are
10 used at juvenile facilities, disaggregated by race, eth-
11 nicity, and gender; and

12 “(3) contains a detailed description of steps
13 taken, in each instance in which room confinement
14 is used at a juvenile facility, to address and remedy
15 the underlying issue that led to behavioral interven-
16 tion resulting in the use of room confinement, in-
17 cluding any positive or negative outcomes.”.

18 (2) TECHNICAL AND CONFORMING AMEND-
19 MENT.—The table of sections for chapter 403 of
20 title 18, United States Code, as amended by this
21 Act, is further amended by adding at the end the
22 following:

“5045. Juvenile solitary confinement.”.

23 **SEC. 4. STUDY AND REPORT ON COST SAVINGS FROM SEAL-**
24 **ING AND EXPUNGEMENT PROVISIONS.**

25 (a) STUDY.—

1 (1) IN GENERAL.—Not later than 5 years after
2 the date of enactment of this Act, the Attorney Gen-
3 eral, in consultation with the Secretary of Labor and
4 the Director of the Office of Management and Budg-
5 et, shall conduct a study on the cost savings and
6 broader economic impact of the sealing and
7 expungement provisions in the amendments made by
8 sections 2, 3, and 6 of this Act.

9 (2) CONSIDERATIONS.—In conducting the study
10 under paragraph (1), the Attorney General shall
11 consider—

12 (A) the reduction in recidivism and associ-
13 ated cost savings related to corrections and
14 public safety;

15 (B) increased economic activity by former
16 offenders, including by conducting an analysis
17 of the tax revenue generated by that activity;
18 and

19 (C) the economic impact on the household
20 of former offenders and the children of former
21 offenders.

22 (b) REPORT.—Not later than 5 years after the date
23 of enactment of this Act, the Attorney General shall sub-
24 mit to Congress a report on the study conducted under
25 subsection (a).

1 **SEC. 5. TANF ASSISTANCE AND SNAP BENEFITS.**

2 (a) AMENDMENT TO BAN ON ASSISTANCE.—Section
3 115 of the Personal Responsibility and Work Opportunity
4 Reconciliation Act of 1996 (21 U.S.C. 862a) is amend-
5 ed—

6 (1) in subsection (a)—

7 (A) by redesignating paragraphs (1) and
8 (2) as subparagraphs (A) and (B), respectively,
9 and adjusting the margins accordingly;

10 (B) in the matter preceding subparagraph
11 (A), as redesignated—

12 (i) by striking “An individual” and in-
13 serting the following:

14 “(1) DENIAL OF ASSISTANCE AND BENEFITS.—
15 Except as provided in paragraph (2), an individual”;
16 and

17 (ii) by striking “possession, use, or”;
18 and

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

20 “(2) EXCEPTION FOR INDIVIDUALS WHO RE-
21 CEIVE TREATMENT AND OTHER INDIVIDUALS.—The
22 prohibition under paragraph (1) shall not apply to
23 an individual convicted of an offense described in
24 paragraph (1) who—

25 “(A)(i) has successfully completed a cer-
26 tified substance abuse treatment program; and

1 “(ii) has not committed a subsequent of-
2 fense described in paragraph (1);

3 “(B) is participating in a certified sub-
4 stance abuse treatment program;

5 “(C)(i) is eligible for and has sought to
6 participate in a certified substance abuse treat-
7 ment program; and

8 “(ii) agrees to immediately enroll and par-
9 ticipate in a certified substance abuse treatment
10 program once a slot becomes available for the
11 individual;

12 “(D) is a custodial parent;

13 “(E)(i) is suffering from a serious illness,
14 other than a substance abuse disorder; and

15 “(ii) provides documentation of the illness
16 described in clause (i) with a letter of diagnosis
17 from a medical provider;

18 “(F) is pregnant; or

19 “(G) is in compliance with the terms of the
20 sentence imposed on the individual for the con-
21 viction.”;

22 (2) in subsection (d), by striking “the date of
23 the enactment of this Act” each place that term ap-
24 pears and inserting “the date of enactment of the

1 Record Expungement Designed to Enhance Employ-
2 ment Act of 2017”;

3 (3) by striking subsection (e) and inserting the
4 following:

5 “(e) DEFINITIONS.—For purposes of this section—

6 “(1) the term ‘certified substance abuse treat-
7 ment program’ means a course of substance abuse
8 disorder treatment prescribed by a qualified behav-
9 ioral health provider;

10 “(2) the term ‘custodial parent’ means an indi-
11 vidual who has custody of, and lives in the same
12 household as—

13 “(A) a dependent child who is less than 18
14 years of age; or

15 “(B) a disabled child of the individual who
16 is not less than 18 years of age;

17 “(3) the term ‘State’ has the meaning given the
18 term—

19 “(A) in section 419(5) of the Social Secu-
20 rity Act, when referring to assistance provided
21 under a State program funded under part A of
22 title IV of the Social Security Act; and

23 “(B) in section 3 of the Food and Nutri-
24 tion Act of 2008 (7 U.S.C. 2012), when refer-
25 ring to the supplemental nutrition assistance

1 program (as defined in that section) or any
2 State program carried out under that Act; and

3 “(4) the term ‘successfully completed’, with re-
4 spect to an individual who participates in a certified
5 substance abuse treatment program, means the indi-
6 vidual has completed the prescribed course of treat-
7 ment for a substance abuse disorder.”; and

8 (4) in subsection (f), by striking paragraph (5)
9 and inserting the following:

10 “(5) Employment services, including job train-
11 ing programs and any other employment services
12 that are funded using assistance or benefits referred
13 to in subsection (a).”.

14 (b) EFFECT ON STATE ELECTIONS TO OPT OUT OR
15 LIMIT PERIOD OF PROHIBITION.—

16 (1) DEFINITIONS.—In this subsection—

17 (A) the term “State” has the meaning
18 given the term in section 115(e) of the Personal
19 Responsibility and Work Opportunity Reconcili-
20 ation Act of 1996 (21 U.S.C. 862a(e)); and

21 (B) the term “TANF assistance or SNAP
22 benefits” means assistance or benefits referred
23 to in section 115(a) of the Personal Responsi-
24 bility and Work Opportunity Reconciliation Act
25 of 1996.

1 (2) EFFECT.—A law enacted by a State under
2 the authority under subparagraph (A) or (B) of sub-
3 section (d)(1) of section 115 of the Personal Respon-
4 sibility and Work Opportunity Reconciliation Act of
5 1996 (21 U.S.C. 862a) (as in effect on the day be-
6 fore the date of enactment of this Act), and any
7 State law or regulation enacted to carry out the re-
8 quirements of such section (as in effect on the day
9 before the date of enactment of this Act), that im-
10 poses conditions on eligibility for TANF assistance
11 or SNAP benefits that are more restrictive than the
12 conditions on eligibility for TANF assistance or
13 SNAP benefits under such section as amended by
14 subsection (a) shall have no force or effect.

15 **SEC. 6. STATE INCENTIVES.**

16 (a) COPS GRANTS PRIORITY.—Section 1701 of title
17 I of the Omnibus Crime Control and Safe Streets Act of
18 1968 (42 U.S.C. 3796dd) is amended—

19 (1) in subsection (c)—

20 (A) in paragraph (2), by striking “or” at
21 the end;

22 (B) in paragraph (3), by striking the pe-
23 riod at the end and inserting “; or”; and

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

1 “(4) subject to subsection (1)(1), from an appli-
2 cant in a State that has in effect—

3 “(A) a law relating to the confidentiality,
4 sealing, and expungement of juvenile records
5 that is substantially similar to, or more gen-
6 erous to the former offender than, the amend-
7 ments made by subsections (b) through (d) of
8 section 3 of the Record Expungement Designed
9 to Enhance Employment Act of 2017;

10 “(B) a law prohibiting juvenile solitary
11 confinement that is substantially similar to, or
12 more restrictive than, the amendment made by
13 subsection (e) of section 3 of the Record
14 Expungement Designed to Enhance Employ-
15 ment Act of 2017;

16 “(C) a law relating to the sealing of adult
17 records that is substantially similar to, or more
18 generous to the former offender than, the
19 amendments made by section 2 of the Record
20 Expungement Designed to Enhance Employ-
21 ment Act of 2017;

22 “(D) subject to subsection (1)(2), a law
23 that establishes that an adult criminal court
24 may not have original jurisdiction over an indi-

1 individual who was less than 18 years of age when
2 the individual committed an offense;

3 “(E) a law that allows an individual who
4 has successfully sealed or expunged a criminal
5 record to be free from civil and criminal perjury
6 laws;

7 “(F) a law relating to the eligibility of in-
8 dividuals for assistance or benefits referred to
9 in subsection (a) of section 115 of the Personal
10 Responsibility and Work Opportunity Reconcili-
11 ation Act of 1996 (21 U.S.C. 862a(a)) that is
12 no more restrictive than such section, as
13 amended by section 5 of the Record
14 Expungement Designed to Enhance Employ-
15 ment Act of 2017; or

16 “(G) a law or policy that ensures to the
17 maximum extent practicable, for juveniles who
18 have been arrested for or convicted of a crimi-
19 nal offense—

20 “(i) equal sentencing guidelines, with-
21 out regard to gender; and

22 “(ii) equal access, without regard to
23 gender, to services, assistance, or benefits
24 provided.”; and

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

1 “(1) RULES FOR PREFERENTIAL CONSIDERATION OF
2 STATES WITH LAWS SIMILAR TO REDEEM ACT.—

3 “(1) DEGREE OF PRIORITY COMMENSURATE
4 WITH DEGREE OF COMPLIANCE.—If the Attorney
5 General, in awarding grants under this part, gives
6 preferential consideration to any application as au-
7 thorized under subsection (c)(4), the Attorney Gen-
8 eral shall base the degree of preferential consider-
9 ation given to an application from an applicant in a
10 particular State on the number of subparagraphs
11 under that subsection that the State has satisfied,
12 relative to the number of such subparagraphs that
13 each other State has satisfied.

14 “(2) JUVENILE TRANSFER PROVISIONS.—Sub-
15 section (c)(4)(D) shall not be construed to preclude
16 from preferential consideration an application from
17 an applicant in a State that—

18 “(A) has in effect a law that authorizes the
19 transfer of an individual who is less than 18
20 years of age to adult criminal court if the indi-
21 vidual commits a specified offense or an offense
22 that falls under a specified category of offenses;
23 or

24 “(B) exercises other case-specific transfer
25 mechanisms.”.

1 (b) ATTORNEY GENERAL GUIDELINES AND TECH-
 2 NICAL ASSISTANCE.—The Attorney General shall issue
 3 guidelines and provide technical assistance to assist States
 4 in complying with the incentive under section 1701(c)(4)
 5 of title I of the Omnibus Crime Control and Safe Streets
 6 Act of 1968 (42 U.S.C. 3796dd(c)(4)), as added by sub-
 7 section (a).

8 **SEC. 7. GENDER EQUALITY IN FEDERAL JUVENILE DELIN-**
 9 **QUENCY PROCEEDINGS.**

10 (a) DISPOSITIONS.—Section 5037 of title 18, United
 11 States Code, is amended by adding at the end the fol-
 12 lowing:

13 “(f) GENDER EQUALITY.—

14 “(1) POLICY OF THE UNITED STATES.—It is
 15 the policy of the United States that there should be
 16 no disparities based on gender in dispositions of ju-
 17 venile cases.

18 “(2) DIRECTIVE TO SENTENCING COMMISSION
 19 AND COURTS.—The United States Sentencing Com-
 20 mission, in promulgating sentencing guidelines and
 21 policy statements applicable to dispositions of dis-
 22 trict courts exercising jurisdiction over juveniles, and
 23 the courts, in determining such dispositions, shall
 24 take care to avoid and remedy any disparities de-
 25 scribed in paragraph (1).”.

1 (b) COMMITMENTS.—Section 5039 of title 18, United
 2 States Code, is amended, in the second paragraph, by add-
 3 ing at the end the following: “The Attorney General shall
 4 promulgate regulations that ensure, to the maximum ex-
 5 tent practicable, equal access, without regard to gender,
 6 to services, assistance, or benefits provided, to juveniles
 7 who have been arrested under Federal authority, or com-
 8 mitted pursuant to an adjudication under this chapter, for
 9 juvenile delinquency.”.

10 **SEC. 8. ENSURING ACCURACY IN THE FBI BACKGROUND**
 11 **CHECK SYSTEM.**

12 (a) IN GENERAL.—Section 534 of title 28, United
 13 States Code, is amended by adding at the end the fol-
 14 lowing:

15 “(g) ENSURING ACCURACY IN THE FBI BACK-
 16 GROUND CHECK SYSTEM.—

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

18 “(A) the term ‘applicant’ means the indi-
 19 vidual to whom a record sought to be exchanged
 20 pertains;

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

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

1 “(ii) indicates that an individual was
2 arrested or criminal proceedings were insti-
3 tuted against an individual but does not
4 include the final disposition of the arrest
5 or of the proceedings if a final disposition
6 has been reached;

7 “(C) the term ‘record’ means a record or
8 other information collected under this section;

9 “(D) the term ‘reporting jurisdiction’
10 means any person or entity that provides a
11 record to the Attorney General under this sec-
12 tion; and

13 “(E) the term ‘requesting entity’—

14 “(i) means a person or entity that
15 seeks the exchange of a record for civil
16 purposes that include employment, hous-
17 ing, credit, or any other type of applica-
18 tion; and

19 “(ii) does not include a law enforce-
20 ment or intelligence agency that seeks the
21 exchange of a record for—

22 “(I) investigative purposes; or

23 “(II) purposes relating to law en-
24 forcement employment.

1 “(2) INCOMPLETE OR INACCURATE RECORDS.—
2 The Attorney General shall establish and enforce
3 procedures to ensure the prompt release of accurate
4 records exchanged for employment-related purposes
5 through the records system created under this sec-
6 tion.

7 “(3) REQUIRED PROCEDURES.—The procedures
8 established under paragraph (2) shall include the
9 following:

10 “(A) INACCURATE RECORD OR INFORMA-
11 TION.—If the Attorney General determines that
12 a record is inaccurate, the Attorney General
13 shall promptly correct the record, including by
14 making deletions to the record if appropriate.

15 “(B) INCOMPLETE RECORD.—

16 “(i) IN GENERAL.—If the Attorney
17 General determines that a record is incom-
18 plete or cannot be verified, the Attorney
19 General—

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

22 “(II) if unable to complete or
23 verify the record, may promptly make
24 any changes or deletions to the
25 record.

1 “(ii) LACK OF DISPOSITION OF AR-
2 REST.—For purposes of this subpara-
3 graph, an incomplete record includes a
4 record that indicates there was an arrest
5 and does not include the disposition of the
6 arrest.

7 “(iii) OBTAINING DISPOSITION OF AR-
8 REST.—If the Attorney General determines
9 that a record is an incomplete record de-
10 scribed in clause (ii), the Attorney General
11 shall, not later than 10 days after the date
12 on which the requesting entity requests the
13 exchange and before the exchange is made,
14 obtain the disposition (if any) of the ar-
15 rest.

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

20 “(D) OPPORTUNITY TO REVIEW RECORDS
21 BY APPLICANT.—In connection with an ex-
22 change of a record under this section, the At-
23 torney General shall—

1 “(i) obtain the consent of the appli-
2 cant to exchange the record with the re-
3 questing entity;

4 “(ii) at the time of consent, notify the
5 applicant that the applicant can obtain a
6 copy of the record;

7 “(iii) provide to the applicant an op-
8 portunity to—

9 “(I) obtain a copy of the record
10 upon request; and

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

13 “(iv) promptly notify the requesting
14 entity of any such challenge;

15 “(v) not later than 30 days after the
16 date on which the challenge is made, com-
17 plete an investigation of the challenge;

18 “(vi) provide to the applicant the spe-
19 cific findings and results of that investiga-
20 tion;

21 “(vii) promptly make any changes or
22 deletions to the records required as a re-
23 sult of the challenge; and

24 “(viii) report those changes to the re-
25 questing entity.

1 “(E) CERTAIN EXCHANGES PROHIBITED.—

2 An exchange shall not include any record—

3 “ (i) about an arrest more than 2
4 years old as of the date of the request for
5 the exchange, that does not also include a
6 disposition (if any) of that arrest;

7 “ (ii) relating to an adult or juvenile
8 non-serious offense of the sort described in
9 section 20.32(b) of title 28, Code of Fed-
10 eral Regulations, as in effect on July 1,
11 2009; or

12 “ (iii) to the extent the record is not
13 clearly an arrest or a disposition of an ar-
14 rest.

15 “(4) FEES.—The Attorney General may collect
16 a reasonable fee for an exchange of records for em-
17 ployment-related purposes through the records sys-
18 tem created under this section to defray the costs
19 associated with exchanges for those purposes, includ-
20 ing any costs associated with the investigation of in-
21 accurate or incomplete records.”.

22 (b) REGULATIONS ON REASONABLE PROCEDURES.—

23 Not later than 1 year after the date of enactment of this
24 Act, the Attorney General shall issue regulations to carry

1 out section 534(g) of title 28, United States Code, as
2 added by subsection (a).

3 (c) REPORT.—Not later than 2 years after the date
4 of enactment of this Act, the Attorney General shall sub-
5 mit to Congress a report on the implementation of sub-
6 section (g) of section 534 of title 28, United States Code,
7 as added by subsection (a), that includes—

8 (1) the number of exchanges of records for em-
9 ployment-related purposes made with entities in each
10 State through the records system created under such
11 section 534;

12 (2) any prolonged failure of a reporting juris-
13 diction to comply with a request by the Attorney
14 General for information about dispositions of ar-
15 rests; and

16 (3) the numbers of successful and unsuccessful
17 challenges to the accuracy and completeness of
18 records, organized by State of origination of each
19 record.

20 **SEC. 9. REPORT ON STATUTORY AND REGULATORY RE-**
21 **STRICTIONS AND DISQUALIFICATIONS BASED**
22 **ON CRIMINAL RECORDS.**

23 (a) IN GENERAL.—Not later than 2 years after the
24 date of enactment of this Act, the Attorney General, in
25 consultation with the Secretary of Labor and the Director

1 of the Office of Personnel Management, shall submit to
2 Congress a report on each Federal statute, regulation, or
3 policy that authorizes a restriction on, or disqualification
4 of, an applicant for employment or for a Federal license
5 or permit based on the criminal record of the applicant.

6 (b) IDENTIFICATION OF INFORMATION.—In the re-
7 port submitted under subsection (a), the Attorney General
8 shall—

9 (1) identify each occupation, position, license,
10 or permit to which a restriction or disqualification
11 described in subsection (a) applies; and

12 (2) for each occupation, position, license, or
13 permit identified under paragraph (1), include—

14 (A) a description of the restriction or dis-
15 qualification;

16 (B) the duration of the restriction or dis-
17 qualification;

18 (C) an evaluation of the rationale for the
19 restriction or disqualification and its continuing
20 usefulness;

21 (D) the procedures, if any, to appeal, waive
22 or exempt the restriction or disqualification
23 based on a showing of rehabilitation or other
24 relevant evidence;

1 (E) any information available about the
2 numbers of individuals restricted or disqualified
3 on the basis of a criminal record; and

4 (F) the identity of the Federal agency with
5 jurisdiction over the restriction or disqualifica-
6 tion.

○