

117TH CONGRESS  
1ST SESSION

# H. R. 3510

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2021

Mr. JEFFRIES (for himself, Mr. BACON, Mr. NADLER, Ms. MACE, and Ms. JACKSON LEE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “First Step Implementation Act of 2021”.

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

Sec. 1. Short title; table of contents.

Sec. 101. Application of First Step Act.  
 Sec. 102. Modifying safety valve for drug offenses.

## TITLE II—CORRECTIONS REFORM

Sec. 201. Parole for juveniles.  
 Sec. 202. Juvenile sealing and expungement.  
 Sec. 203. Ensuring accuracy of Federal criminal records.

# 1 **TITLE I—SENTENCING REFORM**

## 2 **SEC. 101. APPLICATION OF FIRST STEP ACT.**

3 (a) DEFINITIONS.—In this section—

4 (1) the term “covered offense” means—

5 (A) a violation of a Federal criminal stat-  
 6 ute, the statutory penalties for which were  
 7 modified by section 401 or 403 of the First  
 8 Step Act of 2018 (Public Law 115–391; 132  
 9 Stat. 5220), that was committed on or before  
 10 December 21, 2018; or

11 (B) a violation of a Federal criminal stat-  
 12 ute, the statutory penalties for which are modi-  
 13 fied by subsection (b) of this section; and

14 (2) the term “serious violent felony” has the  
 15 meaning given that term in section 102 of the Con-  
 16 trolled Substances Act (21 U.S.C. 802).

17 (b) AMENDMENTS.—

18 (1) IN GENERAL.—

19 (A) CONTROLLED SUBSTANCES ACT.—Sec-  
 20 tion 401(b) of the Controlled Substances Act  
 21 (21 U.S.C. 841) is amended—

22 (i) in paragraph (1)—

1 (I) in subparagraph (C), by strik-  
2 ing “felony drug offense” and insert-  
3 ing “serious drug felony or serious  
4 violent felony”;

5 (II) in subparagraph (D), by  
6 striking “felony drug offense” and in-  
7 serring “serious drug felony or serious  
8 violent felony”; and

9 (III) in subparagraph (E)(ii), by  
10 striking “felony drug offense” and in-  
11 serring “serious drug felony or serious  
12 violent felony”;

13 (ii) in paragraph (2), by striking “fel-  
14 ony drug offense” and inserting “serious  
15 drug felony or serious violent felony”; and

16 (iii) in paragraph (3), by striking “fel-  
17 ony drug offense” and inserting “serious  
18 drug felony or serious violent felony”.

19 (B) CONTROLLED SUBSTANCES IMPORT  
20 AND EXPORT ACT.—Section 1010(b)(3) of the  
21 Controlled Substances Import and Export Act  
22 (21 U.S.C. 960(b)(3)) is amended by striking  
23 “felony drug offense” and inserting “serious  
24 drug felony or serious violent felony”.

1           (2) PENDING CASES.—This subsection, and the  
2           amendments made by this subsection, shall apply to  
3           any sentence imposed on or after the date of enact-  
4           ment of this Act, regardless of when the offense was  
5           committed.

6           (c) DEFENDANTS PREVIOUSLY SENTENCED.—A  
7           court that imposed a sentence for a covered offense may,  
8           on motion of the defendant, the Director of the Bureau  
9           of Prisons, the attorney for the Government, or the court,  
10          impose a reduced sentence as if sections 401 and 403 of  
11          the First Step Act of 2018 (Public Law 115–391; 132  
12          Stat. 5220) and the amendments made by subsection (b)  
13          of this section were in effect at the time the covered of-  
14          fense was committed if, after considering the factors set  
15          forth in section 3553(a) of title 18, United States Code,  
16          the nature and seriousness of the danger to any person,  
17          the community, or any crime victims, and the post-sen-  
18          tencing conduct of the defendant, the sentencing court  
19          finds a reduction is consistent with the amendments made  
20          by section 401 or 403 of the First Step Act of 2018 (Pub-  
21          lic Law 115–391; 132 Stat. 5220) or with subsection (b)  
22          of this section.

23          (d) CRIME VICTIMS.—Any proceeding under this sec-  
24          tion shall be subject to section 3771 of title 18, United

1 States Code (commonly known as the “Crime Victims  
2 Rights Act”).

3 (e) REQUIREMENT.—For each motion filed under  
4 subsection (b), the Government shall conduct a particular-  
5 ized inquiry of the facts and circumstances of the original  
6 sentencing of the defendant in order to assess whether a  
7 reduction in sentence would be consistent with the First  
8 Step Act of 2018 (Public Law 115–391; 132 Stat. 5194)  
9 and the amendments made by that Act, including a review  
10 of any prior criminal conduct or any other relevant infor-  
11 mation from Federal, State, and local authorities.

12 **SEC. 102. MODIFYING SAFETY VALVE FOR DRUG OFFENSES.**

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

15 (1) by redesignating subsection (g) as sub-  
16 section (h); and

17 (2) by inserting after subsection (f) the fol-  
18 lowing:

19 “(g) INADEQUACY OF CRIMINAL HISTORY.—

20 “(1) IN GENERAL.—If subsection (f) does not  
21 apply to a defendant because the defendant does not  
22 meet the requirements described in subsection (f)(1)  
23 (relating to criminal history), the court may, upon  
24 prior notice to the Government, waive subsection  
25 (f)(1) if the court specifies in writing the specific

1 reasons why reliable information indicates that ex-  
 2 cluding the defendant pursuant to subsection (f)(1)  
 3 substantially overrepresents the seriousness of the  
 4 defendant’s criminal history or the likelihood that  
 5 the defendant will commit other crimes.

6 “(2) PROHIBITION.—This subsection shall not  
 7 apply to any defendant who has been convicted of a  
 8 serious drug felony or a serious violent felony as de-  
 9 fined in paragraphs (57) and (58), respectively, of  
 10 section 102 of the Controlled Substances Act (21  
 11 U.S.C. 802).”.

## 12 **TITLE II—CORRECTIONS**

### 13 **REFORM**

#### 14 **SEC. 201. PAROLE FOR JUVENILES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22          “(8) the family and community circumstances  
23          of the defendant at the time of the offense, including  
24          any history of abuse, trauma, or involvement in the  
25          child welfare system;



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

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

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

12           “(d) LIMITATION ON APPLICATIONS PURSUANT TO  
13 THIS SECTION.—

14           “(1) SECOND APPLICATION.—Not earlier than  
15 5 years after the date on which an order entered by  
16 a court on an initial application under this section  
17 becomes final, a court shall entertain a second appli-  
18 cation by the same defendant under this section.

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

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

4           “(e) PROCEDURES.—

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

7           “(A) any defendant who has served not  
8 less than 19 years in prison for an offense com-  
9 mitted and completed before the defendant at-  
10 tained 18 years of age for which the defendant  
11 was convicted as an adult; and

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

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

22           “(3) APPLICATION.—

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

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

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

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

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

14 “(B) HEARING.—

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

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

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

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

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

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

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

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

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

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

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

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

10 **SEC. 202. JUVENILE SEALING AND EXPUNGEMENT.**

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

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

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

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

23 **“§ 5031. Definitions**

24 “In this chapter—

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

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

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

12          “(4) the term ‘expunge’ means to destroy a  
13          record and obliterate the name of the person to  
14          whom the record pertains from each official index or  
15          public record;

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

18          “(6) the term ‘expungement petition’ means a  
19          petition for expungement filed under section  
20          5045(b);

21          “(7) the term ‘high-risk, public trust position’  
22          means a position designated as a public trust posi-  
23          tion under section 731.106(b) of title 5, Code of  
24          Federal Regulations, or any successor regulation;

25          “(8) the term ‘juvenile’ means—

1           “(A) except as provided in subparagraph  
2           (B), a person who has not attained the age of  
3           18 years; and

4           “(B) for the purpose of proceedings and  
5           disposition under this chapter for an alleged act  
6           of juvenile delinquency, a person who has not  
7           attained the age of 21 years;

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

13          “(10) the term ‘juvenile nonviolent offense’  
14          means—

15                 “(A) in the case of an arrest or an adju-  
16                 dication that is dismissed or finds the juvenile  
17                 to be not delinquent, an act of juvenile delin-  
18                 quency that is not—

19                         “(i) a criminal homicide, forcible rape  
20                         or any other sex offense (as defined in sec-  
21                         tion 111 of the Sex Offender Registration  
22                         and Notification Act (34 U.S.C. 20911)),  
23                         kidnapping, aggravated assault, robbery,  
24                         burglary of an occupied structure, arson,

1 or a drug trafficking crime in which a fire-  
2 arm was used; or

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

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

8 “(i) described in clause (i) or (ii) of  
9 subparagraph (A); or

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

12 “(11) the term ‘juvenile record’—

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

17 “(B) includes—

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

22 “(ii) a social record, including—

23 “(I) a record of a probation offi-  
24 cer;



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

4                   “(III) a medical record;

5                   “(IV) a psychiatric or psycho-  
6                   logical record;

7                   “(V) a birth certificate;

8                   “(VI) an education record, in-  
9                   cluding an individualized education  
10                  plan;

11                  “(VII) a detention record;

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

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

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

24                  “(C) does not include—

25                  “(i) fingerprints; or

1 “(ii) a DNA sample;

2 “(12) the term ‘petitioner’ means a person who  
3 files an expungement petition or a sealing petition;

4 “(13) the term ‘seal’ means—

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

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

11 “(14) the term ‘sealing hearing’ means a hear-  
12 ing held under section 5044(b)(2)(B); and

13 “(15) the term ‘sealing petition’ means a peti-  
14 tion for a sealing order filed under section  
15 5044(b).”.

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

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

22 (2) in subsection (b), by striking “District  
23 courts exercising jurisdiction over any juvenile” and  
24 inserting the following: “Not later than 7 days after

1 the date on which a district court exercises jurisdic-  
2 tion over a juvenile, the district court”.

3 (d) SEALING; EXPUNGEMENT.—

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

7 **“§ 5044. Sealing**

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

10 “(1) IN GENERAL.—Three years after the date  
11 on which a person who is adjudicated delinquent  
12 under this chapter for a juvenile nonviolent offense  
13 completes every term of probation, official detention,  
14 or juvenile delinquent supervision ordered by the  
15 court with respect to the offense, the court shall  
16 order the sealing of each juvenile record or portion  
17 thereof that relates to the offense if the person—

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

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

24 “(2) AUTOMATIC NATURE OF SEALING.—The  
25 order of sealing under paragraph (1) shall require

1 no action by the person whose juvenile records are  
2 to be sealed.

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

8 “(b) PETITIONING FOR EARLY SEALING OF NON-  
9 VIOLENT OFFENSES.—

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

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

21 “(i) has been convicted of a crime or  
22 adjudicated delinquent for an act of juve-  
23 nile delinquency since the date of the dis-  
24 position; or

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

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

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

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

23          “(2) PROCEDURES.—

24                 “(A) NOTIFICATION TO PROSECUTOR.—If  
25                 a person files a sealing petition with respect to

1 a juvenile nonviolent offense, the court in which  
2 the petition is filed shall provide notice of the  
3 petition—

4 “(i) to the Attorney General; and

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

8 “(I) the conduct of the petitioner  
9 since the date of the offense; or

10 “(II) the reasons that the sealing  
11 order should be entered.

12 “(B) HEARING.—

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

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

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

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

23 “(I) PETITIONER.—The peti-  
24 tioner may testify or offer evidence at

1 the sealing hearing in support of seal-  
2 ing.

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

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

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

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

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

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

4           “(iii) the best interests of the peti-  
5 tioner;

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

9           “(v) the nature of the juvenile non-  
10 violent offense;

11           “(vi) the disposition of the case;

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

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

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



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

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

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

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

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

24                 “(i) describes—

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

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

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

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

13          “(H) PUBLIC DEFENDER ELIGIBILITY.—

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

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

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

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

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

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

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

20 “(c) EFFECT OF SEALING ORDER.—

21 “(1) PROTECTION FROM DISCLOSURE.—Except  
22 as provided in paragraphs (3) and (4), if a court or-  
23 ders the sealing of a juvenile record of a person  
24 under subsection (a) or (b) with respect to a juvenile  
25 nonviolent offense, the proceedings in the case shall

1 be deemed never to have occurred, and the person  
2 may properly reply accordingly to any inquiry about  
3 the events the records of which are ordered sealed.

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

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

12 “(i) law enforcement agency; and

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

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

18 “(i) seal the record; and

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

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

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

7           “(3) LAW ENFORCEMENT ACCESS TO SEALED  
8           RECORDS.—

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

14                 “(i) to determine whether the person  
15                 who is the subject of the record is a non-  
16                 violent offender eligible for a first-time-of-  
17                 fender diversion program;

18                 “(ii) for investigatory or prosecutorial  
19                 purposes; or

20                 “(iii) for a background check that re-  
21                 lates to—

22                         “(I) law enforcement employ-  
23                         ment; or

24                         “(II) any position that a Federal  
25                         agency designates as a—

1                   “(aa) national security posi-  
2                   tion; or

3                   “(bb) high-risk, public trust  
4                   position.

5                   “(B) TRANSITION PERIOD.—During the 1-  
6                   year period beginning on the date on which a  
7                   court orders the sealing of a juvenile record  
8                   under this section, a law enforcement agency  
9                   may, for law enforcement purposes, access the  
10                  record if the record is in the possession of the  
11                  agency or another law enforcement agency.

12                  “(4) PROHIBITION ON DISCLOSURE.—

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

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

22                  “(C) EXCEPTIONS.—

23                  “(i) BACKGROUND CHECKS.—In the  
24                  case of a background check for law en-  
25                  forcement employment or for any employ-

1                   ment that requires a government security  
2                   clearance—

3                   “(I) a person who is the subject  
4                   of a juvenile record sealed under this  
5                   section shall disclose the contents of  
6                   the record; and

7                   “(II) a law enforcement agency  
8                   that possesses a juvenile record sealed  
9                   under this section—

10                   “(aa) may disclose the con-  
11                   tents of the record; and

12                   “(bb) if the agency obtains  
13                   or is subject to a court order au-  
14                   thorizing disclosure of the record,  
15                   may disclose the record.

16                   “(ii)   DISCLOSURE   TO   ARMED  
17                   FORCES.—A person, including a law en-  
18                   forcement agency that possesses a juvenile  
19                   record sealed under this section, may dis-  
20                   close information from a juvenile record  
21                   sealed under this section to the Secretaries  
22                   of the military departments (or the Sec-  
23                   retary of Homeland Security with respect  
24                   to the Coast Guard when it is not oper-  
25                   ating as a service in the Navy) for the pur-

1           pose of vetting an enlistment or commis-  
2           sion, or with regard to any member of the  
3           Armed Forces.

4           “(iii) CRIMINAL AND JUVENILE PRO-  
5           CEEDINGS.—A prosecutor or other law en-  
6           forcement officer may disclose information  
7           from a juvenile record sealed under this  
8           section, and a person who is the subject of  
9           a juvenile record sealed under this section  
10          may be required to testify or otherwise dis-  
11          close information about the record, in a  
12          criminal or other proceeding if such disclo-  
13          sure is required by the Constitution of the  
14          United States, the constitution of a State,  
15          or a Federal or State statute or rule.

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

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

23                 “(1) AFTER FILING AND BEFORE PETITION  
24                 GRANTED.—If, after the date on which a person files  
25                 a sealing petition with respect to a juvenile offense



1 and before the court determines whether to grant  
2 the petition, the person is convicted of a crime, adju-  
3 dicated delinquent for an act of juvenile delinquency,  
4 or engaged in active criminal court proceedings or  
5 juvenile delinquency proceedings, the court shall  
6 deny the petition.

7 “(2) AFTER PETITION GRANTED.—If, on or  
8 after the date on which a court orders the sealing  
9 of a juvenile record of a person under subsection (b),  
10 the person is convicted of a crime or adjudicated de-  
11 linquent for an act of juvenile delinquency—

12 “(A) the court shall—

13 “(i) vacate the order; and

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

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

20 “(e) INCLUSION OF STATE JUVENILE DELINQUENCY  
21 ADJUDICATIONS AND PROCEEDINGS.—For purposes of  
22 subparagraphs (A) and (B) of subsection (a)(1), clauses  
23 (i) and (ii) of subsection (b)(1)(A), subsection  
24 (b)(1)(C)(ix), and paragraphs (1) and (2) of subsection  
25 (d), the term ‘juvenile delinquency’ includes the violation

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

4 **“§ 5045. Expungement**

5 “(a) AUTOMATIC EXPUNGEMENT OF CERTAIN  
6 RECORDS.—

7 “(1) ATTORNEY GENERAL MOTION.—

8 “(A) NONVIOLENT OFFENSES COMMITTED  
9 BEFORE A PERSON TURNED 15.—If a person is  
10 adjudicated delinquent under this chapter for a  
11 juvenile nonviolent offense committed before the  
12 person attained 15 years of age and completes  
13 every term of probation, official detention, or  
14 juvenile delinquent supervision ordered by the  
15 court with respect to the offense before attain-  
16 ing 18 years of age, on the date on which the  
17 person attains 18 years of age, the Attorney  
18 General shall file a motion in the district court  
19 of the United States in which the person was  
20 adjudicated delinquent requesting that each ju-  
21 venile record of the person that relates to the  
22 offense be expunged.

23 “(B) ARRESTS.—If a juvenile is arrested  
24 by a Federal law enforcement agency for a ju-  
25 venile nonviolent offense for which a juvenile

1 delinquency proceeding is not instituted under  
2 this chapter, and for which the United States  
3 does not proceed against the juvenile as an  
4 adult in a district court of the United States,  
5 the Attorney General shall file a motion in the  
6 district court of the United States that would  
7 have had jurisdiction of the proceeding request-  
8 ing that each juvenile record relating to the ar-  
9 rest be expunged.

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

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

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

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

11          “(b) PETITIONING FOR EXPUNGEMENT OF NON-  
12          VIOLENT OFFENSES.—

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

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

23                         “(B) is engaged in active criminal court  
24                         proceedings or juvenile delinquency proceedings;  
25                         or

1           “(C) has had not less than 2 adjudications  
2 of delinquency previously expunged under this  
3 section.

4           “(2) PROCEDURES.—

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

10                   “(i) to the Attorney General; and

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

14                           “(I) the conduct of the petitioner  
15 since the date of the offense; or

16                           “(II) the reasons that the  
17 expungement order should be entered.

18           “(B) HEARING.—

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

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

1           “(II) determine whether to enter  
2           an expungement order for the person  
3           in accordance with subparagraph (C).

4           “(ii) OPPORTUNITY TO TESTIFY AND  
5           OFFER EVIDENCE.—

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

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

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

22          “(iii) WAIVER OF HEARING.—If the  
23          petitioner and the Attorney General so  
24          agree, the court shall make a determina-

1           tion under subparagraph (C) without a  
2           hearing.

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

6                   “(i) the petition and any documents in  
7                   the possession of the court;

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

11                  “(iii) the best interests of the peti-  
12                  tioner;

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

16                  “(v) the nature of the juvenile non-  
17                  violent offense;

18                  “(vi) the disposition of the case;

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

23                  “(viii) the length of the time period  
24                  during which the petitioner has been with-

1 out contact with any court or any law en-  
2 forcement agency;

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

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

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

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

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



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

6           “(i) describes—

7                   “(I) the number of expungement  
8 petitions granted and denied under  
9 this subsection; and

10                   “(II) the number of instances in  
11 which the Attorney General supported  
12 or opposed an expungement petition;

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

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

19           “(H) PUBLIC DEFENDER ELIGIBILITY.—

20           “(i) PETITIONERS UNDER AGE 18.—  
21 The district court shall appoint counsel in  
22 accordance with the plan of the district  
23 court in operation under section 3006A to  
24 represent a petitioner for purposes of this

1 subsection if the petitioner is less than 18  
2 years of age.

3 “(ii) PETITIONERS AGE 18 AND  
4 OLDER.—

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

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

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

23 “(bb) the potential for ad-  
24 verse testimony by a victim or a

1 representative of the Attorney  
2 General.

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

4 “(1) PROTECTION FROM DISCLOSURE.—Except  
5 as provided in paragraphs (4) through (8), if a court  
6 orders the expungement of a juvenile record of a  
7 person under subsection (a) or (b) with respect to a  
8 juvenile nonviolent offense, the proceedings in the  
9 case shall be deemed never to have occurred, and the  
10 person may properly reply accordingly to any inquiry  
11 about the events the records of which are ordered  
12 expunged.

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

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

21 “(i) law enforcement agency; and

22 “(ii) public or private correctional or  
23 detention facility;

24 “(B) in the expungement order—

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

3                   “(I) seal the record for 1 year  
4                   and, during that 1-year period, apply  
5                   paragraphs (3) and (4) of section  
6                   5044(c) with respect to the record;

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

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

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

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

1           “(D) after receiving a written certification  
2           from each entity or person under subparagraph  
3           (B)(i)(III), notify the petitioner that each entity  
4           or person described in subparagraph (A) has  
5           destroyed each paper and electronic copy of the  
6           record.

7           “(3) REPLY TO INQUIRIES.—On and after the  
8           date that is 1 year after the date on which a court  
9           orders the expungement of a juvenile record of a  
10          person under this section, in the case of an inquiry  
11          relating to the juvenile record, the court, each law  
12          enforcement officer, any agency that provided treat-  
13          ment or rehabilitation services to the person, and the  
14          person (except as provided in paragraphs (4)  
15          through (8)) shall reply to the inquiry that no such  
16          juvenile record exists.

17          “(4) CIVIL ACTIONS.—

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

1 enforcement agency is an agency, in which the  
2 contents of the record are relevant to the reso-  
3 lution of the issues presented in the action,  
4 there shall be a rebuttable presumption that the  
5 defendant has a complete defense to the action.

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

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

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

24 “(5) CRIMINAL AND JUVENILE PRO-  
25 CEEDINGS.—On and after the date that is 1 year

1 after the date on which a court orders the  
2 expungement of a juvenile record under this section,  
3 a prosecutor or other law enforcement officer may  
4 disclose underlying information from the juvenile  
5 record, and the person who is the subject of the ju-  
6 venile record may be required to testify or otherwise  
7 disclose information about the record, in a criminal  
8 or other proceeding if such disclosure is required by  
9 the Constitution of the United States, the constitu-  
10 tion of a State, or a Federal or State statute or rule.

11 “(6) BACKGROUND CHECKS.—On and after the  
12 date that is 1 year after the date on which a court  
13 orders the expungement of a juvenile record under  
14 this section, in the case of a background check for  
15 law enforcement employment or for any employment  
16 that requires a government security clearance, the  
17 person who is the subject of the juvenile record may  
18 be required to disclose underlying information from  
19 the record.

20 “(7) DISCLOSURE TO ARMED FORCES.—On and  
21 after the date that is 1 year after the date on which  
22 a court orders the expungement of a juvenile record  
23 under this section, a person, including a law enforce-  
24 ment agency that possessed such a juvenile record,  
25 may be required to disclose underlying information

1 from the record to the Secretaries of the military de-  
2 partments (or the Secretary of Homeland Security  
3 with respect to the Coast Guard when it is not oper-  
4 ating as a service in the Navy) for the purpose of  
5 vetting an enlistment or commission, or with regard  
6 to any member of the Armed Forces.

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

11 “(9) TREATMENT AS SEALED RECORD DURING  
12 TRANSITION PERIOD.—During the 1-year period be-  
13 ginning on the date on which a court orders the  
14 expungement of a juvenile record under this section,  
15 paragraphs (3) and (4) of section 5044(c) shall  
16 apply with respect to the record as if the record had  
17 been sealed under that section.

18 “(d) LIMITATION RELATING TO SUBSEQUENT INCI-  
19 DENTS.—

20 “(1) AFTER FILING AND BEFORE PETITION  
21 GRANTED.—If, after the date on which a person files  
22 an expungement petition with respect to a juvenile  
23 offense and before the court determines whether to  
24 grant the petition, the person is convicted of a  
25 crime, adjudicated delinquent for an act of juvenile



1 delinquency, or engaged in active criminal court pro-  
2 ceedings or juvenile delinquency proceedings, the  
3 court shall deny the petition.

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

11 “(A) the court that ordered the  
12 expungement shall—

13 “(i) vacate the order; and

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

19 “(B) the record—

20 “(i) shall not be expunged; or

21 “(ii) if the record has been expunged  
22 because 1 year has elapsed since the date  
23 of the expungement order, shall not be  
24 treated as having been expunged.

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

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

“5044. Sealing.

“5045. Expungement.”.

13           (3) APPLICABILITY.—Sections 5044 and 5045  
14           of title 18, United States Code, as added by para-  
15           graph (1), shall apply with respect to a juvenile non-  
16           violent offense (as defined in section 5031 of such  
17           title, as amended by subsection (b)) that is com-  
18           mitted or alleged to have been committed before, on,  
19           or after the date of enactment of this Act.

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

1 **SEC. 203. ENSURING ACCURACY OF FEDERAL CRIMINAL**  
2 **RECORDS.**

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

6 “(g) ENSURING ACCURACY OF FEDERAL CRIMINAL  
7 RECORDS.—

8 “(1) DEFINITIONS.—

9 “(A) IN GENERAL.—In this subsection—

10 “(i) the term ‘applicant’ means the in-  
11 dividual to whom a record sought to be ex-  
12 changed pertains;

13 “(ii) the term ‘high-risk, public trust  
14 position’ means a position designated as a  
15 public trust position under section  
16 731.106(b) of title 5, Code of Federal Reg-  
17 ulations, or any successor regulation;

18 “(iii) the term ‘incomplete’, with re-  
19 spect to a record, means the record—

20 “(I) indicates that an individual  
21 was arrested but does not describe the  
22 offense for which the individual was  
23 arrested; or

24 “(II) indicates that an individual  
25 was arrested or criminal proceedings  
26 were instituted against an individual

1 but does not include the final disposi-  
2 tion of the arrest or of the pro-  
3 ceedings if a final disposition has been  
4 reached;

5 “(iv) the term ‘record’ means a record  
6 or other information collected under this  
7 section that relates to—

8 “(I) an arrest by a Federal law  
9 enforcement officer; or

10 “(II) a Federal criminal pro-  
11 ceeding;

12 “(v) the term ‘reporting jurisdiction’  
13 means any person or entity that provides a  
14 record to the Attorney General under this  
15 section; and

16 “(vi) the term ‘requesting entity’—

17 “(I) means a person or entity  
18 that seeks the exchange of a record  
19 for civil purposes that include employ-  
20 ment, housing, credit, or any other  
21 type of application; and

22 “(II) does not include a law en-  
23 forcement or intelligence agency that  
24 seeks the exchange of a record for—

1                   “(aa) investigative purposes;  
2                   or  
3                   “(bb) purposes relating to  
4                   law enforcement employment.

5                   “(B) RULE OF CONSTRUCTION.—The defi-  
6                   nition of the term ‘requesting entity’ under sub-  
7                   paragraph (A) shall not be construed to author-  
8                   ize access to records that is not otherwise au-  
9                   thorized by law.

10                  “(2) INCOMPLETE OR INACCURATE RECORDS.—  
11                  The Attorney General shall establish and enforce  
12                  procedures to ensure the prompt release of accurate  
13                  records exchanged for employment-related purposes  
14                  through the records system created under this sec-  
15                  tion.

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

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

24                         “(B) INCOMPLETE RECORD.—

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

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

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

11           “(ii) LACK OF DISPOSITION OF AR-  
12           REST.—For purposes of this subpara-  
13           graph, an incomplete record includes a  
14           record that indicates there was an arrest  
15           and does not include the disposition of the  
16           arrest.

17           “(iii) OBTAINING DISPOSITION OF AR-  
18           REST.—If the Attorney General determines  
19           that a record is an incomplete record de-  
20           scribed in clause (ii), the Attorney General  
21           shall, not later than 10 days after the date  
22           on which the requesting entity requests the  
23           exchange and before the exchange is made,  
24           obtain the disposition (if any) of the ar-  
25           rest.

1           “(C) NOTIFICATION OF REPORTING JURIS-  
2           DICTION.—The Attorney General shall notify  
3           each appropriate reporting jurisdiction of any  
4           action taken under subparagraph (A) or (B).

5           “(D) OPPORTUNITY TO REVIEW RECORDS  
6           BY APPLICANT.—In connection with an ex-  
7           change of a record under this section, the At-  
8           torney General shall—

9                   “(i) notify the applicant that the ap-  
10                  plicant can obtain a copy of the record as  
11                  described in clause (ii) if the applicant  
12                  demonstrates a reasonable basis for the ap-  
13                  plicant’s review of the record;

14                  “(ii) provide to the applicant an op-  
15                  portunity, upon request and in accordance  
16                  with clause (i), to—

17                           “(I) obtain a copy of the record;

18                           and

19                           “(II) challenge the accuracy and  
20                           completeness of the record;

21                           “(iii) promptly notify the requesting  
22                           entity of any such challenge;

23                           “(iv) not later than 30 days after the  
24                           date on which the challenge is made, com-  
25                           plete an investigation of the challenge;

1 “(v) provide to the applicant the spe-  
2 cific findings and results of that investiga-  
3 tion;

4 “(vi) promptly make any changes or  
5 deletions to the records required as a re-  
6 sult of the challenge; and

7 “(vii) report those changes to the re-  
8 questing entity.

9 “(E) CERTAIN EXCHANGES PROHIBITED.—

10 “(i) IN GENERAL.—An exchange shall  
11 not include any record—

12 “(I) except as provided in clause  
13 (ii), about an arrest more than 2  
14 years old as of the date of the request  
15 for the exchange, that does not also  
16 include a disposition (if any) of that  
17 arrest;

18 “(II) relating to an adult or juve-  
19 nile nonserious offense of the sort de-  
20 scribed in section 20.32(b) of title 28,  
21 Code of Federal Regulations, as in ef-  
22 fect on July 1, 2009; or

23 “(III) to the extent the record is  
24 not clearly an arrest or a disposition  
25 of an arrest.



1                   “(ii) APPLICANTS FOR SENSITIVE PO-  
2                   SITIONS.—The prohibition under clause  
3                   (i)(I) shall not apply in the case of a back-  
4                   ground check that relates to—

5                               “(I) law enforcement employ-  
6                               ment; or

7                               “(II) any position that a Federal  
8                               agency designates as a—

9                                       “(aa) national security posi-  
10                                      tion; or

11                                     “(bb) high-risk, public trust  
12                                     position.

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

20                   (b) REGULATIONS ON REASONABLE PROCEDURES.—  
21                   Not later than 1 year after the date of enactment of this  
22                   Act, the Attorney General shall issue regulations to carry  
23                   out section 534(g) of title 28, United States Code, as  
24                   added by subsection (a).

25                   (c) REPORT.—

1           (1) DEFINITION.—In this subsection, the term  
2 “record” has the meaning given the term in sub-  
3 section (g) of section 534 of title 28, United States  
4 Code, as added by subsection (a).

5           (2) REPORT REQUIRED.—Not later than 2  
6 years after the date of enactment of this Act, the  
7 Attorney General shall submit to Congress a report  
8 on the implementation of subsection (g) of section  
9 534 of title 28, United States Code, as added by  
10 subsection (a), that includes—

11                   (A) the number of exchanges of records for  
12 employment-related purposes made with entities  
13 in each State through the records system cre-  
14 ated under such section 534;

15                   (B) any prolonged failure of a Federal  
16 agency to comply with a request by the Attor-  
17 ney General for information about dispositions  
18 of arrests; and

19                   (C) the numbers of successful and unsuc-  
20 cessful challenges to the accuracy and complete-  
21 ness of records, organized by the Federal agen-  
22 cy from which each record originated.

○