To improve public safety, accountability, transparency, and respect for federalism in Federal criminal law by applying evidence-based reforms already made by some States, and reinvesting the resulting savings from doing so in additional evidence-based criminal justice strategies that are proven to reduce recidivism and crime, and the burden of the criminal justice system on the taxpayer.

IN THE HOUSE OF REPRESENTATIVES

Mr. Scott of Virginia introduced the following bill; which was referred to the Committee on

A BILL

To improve public safety, accountability, transparency, and respect for federalism in Federal criminal law by applying evidence-based reforms already made by some States, and reinvesting the resulting savings from doing so in additional evidence-based criminal justice strategies that are proven to reduce recidivism and crime, and the burden of the criminal justice system on the taxpayer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Safe, Accountable, Fair, Effective Justice Act” or “SAFE Justice Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

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Sec. 101. Compilation and publication of criminal offenses to provide fair notice to address over-federalization.
Sec. 102. Procedures to reduce over-federalization.
Sec. 103. Procedures to reduce pretrial detention.
Sec. 104. Annual review and reports of the citizen complaint process.
Sec. 105. Focusing Federal criminal penalties for simple possession to places of special Federal interest in recognition of the balance of power between the Federal Government and the States.

TITLE II—CREATING A PERFORMANCE-INCENTIVE FUNDING PROGRAM

Sec. 201. Calculation of savings.
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Sec. 302. Accuracy and reliability of evidence in criminal cases; addressing information disparity in criminal cases.
Sec. 303. Notification relating to forensic, prosecutorial, or law enforcement misconduct.
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Sec. 305. Toolkits for State and local government.
TITLE IV—CONCENTRATING PRISON SPACE ON VIOLENT AND CAREER CRIMINALS

Subtitle A—Restoring Original Congressional Intent To Focus Federal Drug Mandatory Minimums Only on Managers, Supervisors, Organizers, and Leaders of Drug Trafficking Organizations and To Avoid Duplicative Prosecution With States

Sec. 401. Focusing the application of Federal mandatory minimums for certain drug offenses to restore original congressional intent respecting the balance of power between the Federal Government and the States.

Sec. 402. Modification of criteria for “safety valve” limitation on applicability of certain mandatory minimums.

Sec. 403. Consistency in the use of prior convictions for sentencing enhancements.

Sec. 404. Clarification of applicability of the Fair Sentencing Act.

Sec. 405. Eligibility for resentencing based on changes in law.


Sec. 407. Exclusion of acquitted conduct and discretion to disregard manipulated conduct from consideration during sentencing.

Subtitle B—Clarification of Congressional Intent on Certain Recidivist Penalties

Sec. 408. Amendments to enhanced penalties provision.

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TITLE V—ENCOURAGING ACCOUNTABILITY WITH GREATER USE OF EVIDENCE-BASED SENTENCING ALTERNATIVES FOR LOWER-LEVEL OFFENDERS

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TITLE VI—IMPLEMENTING EVIDENCE-BASED PRACTICES TO REDUCE RECIDIVISM

Subtitle A—Revision of Statutory Sentence Credits

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Sec. 602. Postsentencing risk and needs assessment system and in-prison recidivism reduction programming.

Subtitle B—De-escalation Training and Improving Community Relations

Sec. 603. De-escalation training.
Subtitle C—Oversight of Mental Health and Substance Abuse Treatment

Sec. 604. Authorizing grants to States for the use of medication-assisted treatment for heroin, opioid, or alcohol abuse in residential substance abuse treatment.

Sec. 605. Performance-based contracting for residential reentry centers.

Subtitle D—Implementing Swift, Certain, and Proportionate Sanctions for Violations of Conditions of Probation or Supervised Release

Sec. 606. Graduated sanctioning system.

Sec. 607. Graduated responses to technical violations of supervision.

Sec. 608. Targeted and proportional penalties for revocation of probation.

Sec. 609. Targeted and proportional penalties for violations of supervised release.

Subtitle E—Focus Supervision Resources on High-Risk Offenders

Sec. 610. Earned discharge credits for compliant supervisees.

Sec. 611. Elimination of mandatory revocation for minor drug violations.

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TITLE VII—INCREASING GOVERNMENT TRANSPARENCY AND ACCURACY

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Sec. 704. Reports.
TITLE I—IDENTIFYING AND REDUCING OVER-FEDERALIZATION AND OVER-CRIMINALIZATION BY RESPECTING THE BALANCE OF POWERS AMONG THE STATES AND THE FEDERAL GOVERNMENT

SEC. 101. COMPILATION AND PUBLICATION OF CRIMINAL OFFENSES TO PROVIDE FAIR NOTICE TO ADDRESS OVER-FEDERALIZATION.

(a) COMPILATION AND PUBLICATION OF CRIMINAL OFFENSES.—Not later than 180 days after the date of the enactment of this Act, and every year thereafter, the Attorney General shall, in consultation with relevant entities within the executive branch, including independent regulatory agencies, compile a publicly-available and free of charge listing of—

(1) the various Federal law violations that carry criminal penalties;

(2) location/citation of the violation;

(3) the potential criminal penalty for a violation; and

(4) the mens rea required for the offense.

To ensure that individuals have fair notice of prohibited conduct and the criminal penalties they bring, the Attor-
ney General shall publicize the existence of this database and publish the database on the Department of Justice website.

(b) OVERSIGHT TO ADDRESS OVER-FEDERALIZATION.—Each executive branch agency must obtain the express prior approval of the Attorney General for each added criminal penalty resulting from agency regulation.

SEC. 102. PROCEDURES TO REDUCE OVER-FEDERALIZATION.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, in order to reduce over-federalization and over-incarceration, the Attorney General shall create and implement procedures—

(1) to provide coordination by Federal prosecutors and law enforcement agencies with other Federal agencies to determine—

(A) whether unlawful conduct that involves the administrative competencies of other Federal agencies is best addressed by civil sanctions or criminal charges; and

(B) if such conduct is best addressed by criminal charges, whether diversion or criminal prosecution is more appropriate; and

(2) to provide coordination by Federal prosecutors and law enforcement agencies with State pros-
ecutors and law enforcement agencies to reduce duplicative Federal prosecutions of the same offender for the same conduct that may be prosecuted at the State level.

(b) **Report by Inspector General.**—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Justice shall report to the Congress, for the period beginning on the date of the enactment of this Act and ending as closely as feasible to the date on which the report is made, on—

(1) the number of cases referred from law enforcement or other agencies for Federal prosecution in which the alleged unlawful conduct involved a violation of a regulation promulgated by a Federal agency other than the Department of Justice; or

(2) the number of cases accepted for Federal prosecution;

(A) by judicial district;

(B) by mens rea;

(C) by penalty imposed;

(D) by costs;

(3) the estimated Federal correctional costs of those cases in prison bed-years;

(4) the number of cases declined for Federal prosecution; and
(5) the number of cases accepted for Federal
prosecution by offense by judicial district, including
the offense’s mens rea and criminal penalty imposed.

SEC. 103. PROCEDURES TO REDUCE PRETRIAL DETENTION.

(a) Guidance by Attorney General.—Not later
than 180 days after the date of the enactment of this Act,
the Attorney General, in consultation with the Criminal
Law Committee of the Judicial Conference of the United
States, the United States Probation and Pretrial Services,
and a Federal public or community defender from the De-
fender Services Advisory Group, shall create and imple-
ment procedures to reduce over-incarceration due to the
unnecessary use of pretrial detention in certain cases in
order to—

(1) reduce overcrowding of pretrial detention
facilities; and

(2) reduce the cost of pretrial detention.

(b) Considerations to Be Taken Into Account
in Creating Procedures.—In carrying out subsection
(a), the Attorney General and the Director of the United
States Courts shall take into consideration in creating and
implementing their respective procedures—

(1) whether in Federal cases a summons in-
stead of an arrest should be the default procedure;
(2) whether in some or most cases where a summons would not be sufficient, other least restrictive alternatives would be preferable to pretrial detention;

(3) the need to avoid seeking bonds that offenders are unable to meet, which is tantamount to seeking pretrial detention;

(4) the extent to which pretrial detention results from the disproportionate pretrial detention of individuals with fewer economic means;

(5) the impact of pretrial detention on loss of employment and housing; and

(6) the need to avoid pretrial detention that is not necessary to ensure the appearance of the defendant as required and the safety of the public as required under section 3142 of title 18, United States Code.

(c) Report by Inspector General.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Justice shall report to the Congress on the procedures created under this section, and address whether and to what extent those procedures are likely to accomplish their intended purposes. In the report, the Inspector General may include recommendations for further changes in procedures that
would better accomplish the purposes set forth in subsection (a), taking into account the considerations described in subsection (b).

SEC. 104. ANNUAL REVIEW AND REPORTS OF THE CITIZEN COMPLAINT PROCESS.

The Office of the Inspector General shall—

(1) conduct an annual review of citizen complaints to determine whether the Office of Professional Responsibility has taken appropriate disciplinary measures against prosecutors who have mishandled cases or engaged in misconduct; and

(2) publish in a report to Congress each case in which any judge or court has found that a prosecutor or law enforcement officer engaged in misconduct, whether such a finding resulted in reversal, vitiation, or vacatur of a conviction or sentence.

SEC. 105. FOCUSING FEDERAL CRIMINAL PENALTIES FOR SIMPLE POSSESSION TO PLACES OF SPECIAL FEDERAL INTEREST IN RECOGNITION OF THE BALANCE OF POWER BETWEEN THE FEDERAL GOVERNMENT AND THE STATES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after “It shall be un-lawful for any person” each place it appears the following: “within the special maritime and territorial jurisdiction of
the United States (as defined for the purposes of title 18, United States Code)."

TITLE II—CREATING A PERFORMANCE-INCENTIVE FUNDING PROGRAM

SEC. 201. CALCULATION OF SAVINGS.

(a) CALCULATION OF REVOCATION BASELINE.—

(1) GENERAL RULE.—The Director of the Administrative Office of the United States Courts, in consultation with the Director of the Bureau of Prisons and the United States Sentencing Commission, shall calculate for each Federal judicial district a baseline revocation rate.

(2) METHOD OF CALCULATION.—The baseline revocation rate for a judicial district is the percentage equivalent of the ratio of the total number of adult supervisees sent to prison from that district during the baseline period to the total number of adult supervisees sent to prison nationally during the same period.

(3) DEFINITIONS.—In this subsection—

(A) the term "sent to prison" means sent to Federal or State prison—

(i) for a revocation of probation or supervised release; or
(ii) for a conviction of a new felony offense.

(B) The term “baseline period” means the period beginning January 1, 2012, and ending December 31, 2014.

(b) Annual Revocation Calculations.—At the conclusion of the calendar year following the implementation of subsection (a), and every calendar year thereafter, the Director of the Administrative Office of the United States Courts, in consultation with the Director of the Bureau of Prisons and the United States Sentencing Commission shall calculate the following measures:

(1) Average Revocation Cost.—The average revocation cost, which is the average cost to incarcerate a supervisee revoked to prison in the previous year, including average length of stay times average marginal cost per day.

(2) Nationwide Revocation Rate.—The nationwide revocation rate, which is calculated as the number of supervisees nationwide sent to prison in the previous year as a percentage of the nationwide supervision population as of June 30th of that year.

(3) District Revocation Rates.—For each judicial district, the district’s revocation rate, which is calculated as the number of supervisees from that
district sent to prison in the previous year as a percentage of the district’s supervision population as of June 30th of that year.

(4) Reduction in Revocation Rate.—For each judicial district, the reduction in revocation rate is the number of adult supervisees from each district not revoked to prison, which is calculated based on the reduction in the district’s revocation rate as calculated under paragraph (3) from the district’s baseline revocation rate as calculated under subsection (a). In making this estimate, the Director of the Administrative Office of the United States Courts, in consultation with the Director of the Bureau of Prisons and the Judicial Conference of the United States, may adjust the calculation to account for changes in each district’s caseload in the most recent completed year as compared to the district’s adult supervision population during the years 2012 through 2014.

(c) Categorization of Judicial Districts.—Annually, at the conclusion of each calendar year, the Director of the Administrative Office of the United States Courts, in consultation with the Director of the Bureau of Prisons and the United States Sentencing Commission, shall assign the appropriate supervision revocation tier to
each judicial district for which it was estimated that the
judicial district successfully reduced its revocation rate, as
provided by subsection (b)(4). The tiers are defined for
the purposes of this subtitle as follows:

(1) TIER 1.—A tier 1 district is one which has
a district revocation rate, as defined in subsection
(b)(3), that is no more than 25 percent higher than
the nationwide revocation rate, as defined in sub-
section (b)(2).

(2) TIER 2.—A tier 2 district is one which has
a district revocation rate, as defined in subsection
(b)(3), that is more than 25 percent above the na-
tionwide revocation rate, as defined in subsection
(b)(2).

SEC. 202. DISTRIBUTION OF PERFORMANCE INCENTIVE
FUNDING.

(a) DISTRIBUTION OF REVOCATION REDUCTION IN-
CENTIVE PAYMENTS.—Annually, the Director of the Ad-
ministrative Office of the United States Courts, in con-
sultation with the Director of the Bureau of Prisons and
the United States Sentencing Commission, shall calculate
a revocation reduction incentive payment for each eligible
judicial district, pursuant to section 201, for the most re-
cently completed calendar year, as follows:
(1) Revocation reduction incentive payments for Tier 1 districts.—For a Tier 1 district, the district’s revocation reduction incentive payment is equal to the estimated number of supervisees successfully prevented from being sent to prison, as defined by section 201(b)(4) multiplied by 45 percent of the costs to the Director of the Bureau of Prisons to incarcerate a supervisee who is revoked to prison, as defined in section 201(b)(1).

(2) Revocation reduction incentive payments for Tier 2 districts.—For a Tier 2 judicial district, its revocation rate shall equal the estimated number of supervisees successfully prevented from being sent to prison, as defined by section 201(b)(4) multiplied by 40 percent of the costs to the Bureau of Prisons to incarcerate in prison a supervisee whose supervision is revoked.

(b) Distribution of grants for high-performing districts.—

(1) Funding reserved for high-performing districts.—Annually, the Director of the Administrative Office of the United States Courts, in consultation with the Director of the Bureau of Prisons and the United States Sentencing Commission, shall calculate 5 percent of the total savings at-
tributed to those districts that successfully reduce
the number of supervisees revoked to prison for the
purposes of providing high-performance grants.

(2) ELIGIBILITY.—A judicial district is eligible
for a high-performance grant if it is a district—

(A) with supervisee revocation rates more
than 50 percent below the nationwide average
in the most recently completed calendar year;
and

(B) that has not exceeded the national rev-
ocation rate for the past three calendar years.

(3) ADMINISTRATION OF GRANTS FOR HIGH-
PERFORMING DISTRICTS.—

(A) The Administrative Office of the
United States Courts may make a high per-
formance grant to a district in a year in which
that district does not also receive a supervision
revocation reduction payment under subsection
(a).

(B) The chief probation officer, in con-
sultation with the chief judge, in a judicial dis-
trict that qualifies for both a high performance
grant and a supervision revocation reduction
payment shall inform the Administrative Office
of the United States Courts, by a date des-
ignated by the Administrative Office of the United States Courts, whether the judicial district should receive the high performance grant or the supervision failure reduction incentive payment.

(C) The Administrative Office of the United States Courts shall seek to ensure that each qualifying judicial district that submits a qualifying application for a high performance grant receives a proportionate share of the grant funding available, based on the population of adults age 18 to 25, inclusive, in that judicial district.

(e) PAYMENTS.—The Administrative Office of the United States Courts shall disburse the revocation reduction incentive payments and high performance grants calculated for any calendar year to judicial districts in the following fiscal year.

SEC. 203. USE OF PERFORMANCE INCENTIVE FUNDING.

(a) ESTABLISHMENT OF A SUPERVISION PERFORMANCE INCENTIVE FUND.—Each district probation office is hereby authorized to establish a Supervision Performance Incentive Fund (hereinafter in this section referred to as the “Fund”), to receive all amounts allocated to the judicial district for the purposes of implementing this sec-
tion. In any fiscal year for which a district probation office receives sums to be expended for the implementation of this section, those sums, including any interest, shall be made available to the chief probation officer of that district probation office, not later than 30 days after the deposit of those moneys into the fund.

(b) AUTHORIZED USE OF FUNDS.—Funds received through appropriations for the purposes of this subtitle shall be used by the chief probation officer or his designee to provide supervision and rehabilitative services for Federal supervisees, and shall be spent on implementing or enhancing evidence-based community corrections practices and programs, which may include the following:

(1) Implementing and expanding evidence-based risk and needs assessments.

(2) Implementing and expanding the use of graduated sanctions pursuant to section 3609.

(3) Implementing and expanding treatment and services associated with problem-solving courts that are proven to reduce recidivism among the targeted population.

(4) Expanding the availability of evidence-based rehabilitation programs, including drug and alcohol treatment, mental health treatment, employment programs, services for victims of domestic violence,
services for veterans, and cognitive behavioral therapy.

(5) Expanding the availability, in terms of hours and geographic locations, of day reporting centers and the reporting hours of existing probation offices to accommodate supervisees’ work, education, and/or child care schedules.

(6) Hiring social workers to assist supervisees in applications for social services and programs on the local, State, and Federal level.

(7) Evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

c) MANDATORY EVALUATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the chief probation officer, in consultation with the chief judge of the judicial district, shall devote at least 5 percent of all funding received through the Fund to evaluate the effectiveness of those programs and practices implemented or expanded with the funds provided pursuant to this section.

(2) WAIVER OF REQUIREMENT.—A chief probation officer may petition the Administrative Office of the United States Courts for waiver of this restric-
tion, and the Administrative Office of the United States Courts shall have the authority to grant such a petition, if the Chief Probation Officer can demonstrate that the department is already devoting sufficient funds to the evaluation of these programs and practices.

(d) ACCOUNTING.—The head of each district probation office receiving amounts from the Fund shall provide for a separate accounting of those amounts sufficient to evaluate the effectiveness of each program.

SEC. 204. DEFINITIONS.

In this subtitle:

(1) CHIEF JUDGE.—The term “chief judge” with respect to a district court means the chief judge of that court, or the judge of that court if there is only one judge.

(2) CHIEF PROBATION OFFICER.—The term “chief probation officer” means the probation officer designated by the court to direct the work of all probation officers serving in the judicial district.

(3) COMMUNITY CORRECTIONS PROGRAM.—The term “community corrections program” means an evidence-based recidivism reduction program established pursuant to this subtitle, consisting of a sys-
tem of services dedicated to all of the following goals:

(A) Enhancing public safety through the management and reduction of a supervisee’s risk of recidivism while under supervision.

(B) Supporting supervisees’ achievement of stability of employment and housing by using a range of supervision tools, sanctions, and services applied to supervisees for the purpose of reducing criminal conduct and promoting behavioral change that reduces recidivism and promotes the successful reintegration of offenders into the community.

(C) Holding offenders accountable for their criminal behaviors and for successful compliance with applicable court orders and conditions of supervision.

(D) Improving public safety outcomes for persons placed on supervision, as measured by their successful completion of supervision and commensurate reduction in the rate of supervisees sent to prison as a result of a revocation or conviction for a new crime.

(4) Evidence-based practices.—The term “evidence-based practices” means supervision poli-
cies, procedures, programs, and practices that scientific research demonstrates reduce recidivism among people on probation or supervised release.

(5) SUPERVISEE.—The term “supervisee” has the meaning given that term in section 3609 of title 18, United States Code.

(6) SUPERVISION.—The term “supervision” has the meaning given that term in section 3609 of title 18, United States Code.

(7) REVOCATION.—The term “revocation” means a judicial process to revoke supervision that imposes confinement.

TITLE III—ADDRESSING INFORMATION DISPARITY AND ACCURACY IN CRIMINAL PROSECUTIONS TO PROTECT INNOCENCE MORE ROBUSTLY AND TO REDUCE THE NUMBER OF WRONGFUL CONVICTIONS

SEC. 301. FINDINGS AND DECLARATIONS.

The Congress finds and declares the following:

(1) The goal of a law enforcement investigation is to apprehend the person or persons responsible for the commission of a crime.
(2) Mistaken eyewitness identification has been shown to have contributed to the wrongful conviction in 72 percent of the Nation’s 330 DNA exonerations of innocent persons, including 20 who served time on death row and 30 who pled guilty. These innocents served an average of 13.5 years in prison before exoneration and release. No one benefits from a wrongful conviction—except the real perpetrator, who remains free to commit additional crimes. In half of the exoneration cases, the process of settling the innocence claim led to the identification of the real perpetrator. Over 140 violent crimes could have been prevented had the real perpetrator been identified instead of the innocent.

(3) Over the past 30 years, a large body of peer-reviewed, scientific research and practice has emerged showing that simple systemic changes can protect the innocent and the public by increasing the accuracy of the evidence used to support a conviction beyond a reasonable doubt. These reforms are—

(A) improving the accuracy of eyewitness identification;

(B) preserving and analyzing forensic evidence;
(C) recording confessions and interrogations;

(D) regulating, disclosing, and video recording informant or cooperator testimony;

(E) improving the quality of defense counsel;

(F) providing for post-conviction DNA testing for all applicants for whom DNA has the potential to prove innocence; and

(G) increasing compensation to the wrongfully convicted.

(4) Policies and procedures to improve the accuracy of eyewitness identifications such as those recommended by the National Academy of Sciences, the United States National Institute of Justice, the International Association of Chiefs of Police, and the American Bar Association are readily available.

(5) More accurate eyewitness identifications increase the ability of police and prosecutors to convict the guilty and protect the innocent.

(6) The integrity of the criminal justice process is enhanced by adherence to best practices in evidence gathering.
(7) Federal, State, and local governments will benefit from the improvement of the accuracy of eyewitness identifications.

(8) The value of properly preserved biological evidence has been enhanced by the discovery of modern DNA testing methods, which, coupled with a comprehensive system of DNA databases that store crime scene and offender profiles, allow law enforcement to improve its crime-solving potential.

(9) Tapping the potential of preserved biological evidence requires the proper identification, collection, preservation, storage, cataloguing and organization of such evidence.

(10) Law enforcement agencies indicate that “cold” case investigations are hindered by an inability to access biological evidence that was collected in connection with criminal investigations.

(11) Innocent people mistakenly convicted of the serious crimes for which biological evidence is probative cannot prove their innocence if such evidence is not accessible for testing in appropriate circumstances.

(12) It is well established that the failure to update policies regarding the preservation of evidence
squanders valuable law enforcement resources, man-
power hours and storage space.

(13) Simple but crucial enhancements to proto-
cols for properly preserving biological evidence can
solve old crimes, enhance public safety and settle
claims of innocence.

(14) Existing Federal, State, and local laws still
erect procedural hurdles that result in some poten-
tially innocent applicants being barred from seeking
DNA testing after a conviction has been imposed de-
spite enduring probative value of DNA evidence.

(15) During his 2005 State of the Union ad-
dress, President George W. Bush urged that, “[i]n
America, we must make doubly sure no person is
held to account for a crime he or she did not com-
mit, so we are dramatically expanding the use of
DNA evidence to prevent wrongful conviction”.

(16) United States Attorney General Eric Hold-
er expressed his hope, in the interest of justice and
identifying the true perpetrators of crimes, that “all
levels of government will follow the Federal Govern-
ment’s lead by working to expand access to DNA
evidence”.

(17) Emerging DNA testing technologies can
enhance the quality of justice.
(18) The scientifically reliable results of DNA testing provide the certainty and finality that bolster the public’s trust in our Federal, State, and local criminal justice systems.

(19) In addition to the wrongfully convicted and their families, crime victims, law enforcement, prosecutors, courts and the public are harmed whenever individuals guilty of crimes elude justice while innocent individuals are imprisoned for crimes they did not commit.

(20) Our Federal, State, and local governments must enhance their technology to increase the amount of testable, biological evidence and enhance their existing post-conviction DNA testing statutes so that all applicants for whom DNA testing has the potential to prove a claim of innocence will have the opportunity to obtain such testing.

(21) Properly audio and video recorded custodial interrogations provide the best evidence of the communications that occurred during an interrogation; prevent disputes about how an officer conducted himself or treated a suspect during the course of an interrogation; prevent disputes about the account of events the defendant originally provided to law enforcement; spare judges and jurors
the time necessary and need to assess which account
of an interrogation to believe; and enhance public
confidence in the criminal process. It is therefore the
Congress’ intent to require the video and audio re-
cording of all custodial interrogations in Federal law
enforcement agencies.

(22) An informant is a person who was not a
victim of a crime who offers to provide information
or assistance to law enforcement in exchange for le-
niency or some other benefit. The testimony of in-
formants, who have reason to seek leniency from the
criminal justice system in exchange for their testi-
mony, is inherently suspect. However, truthful in-
formant testimony may still be important in solving
crimes.

(23) Rewarding informants, either tacitly or ex-
plicitly, by the Government produces dangerous in-
centives to manufacture or fabricate testimony.
Thus, it is incumbent upon the judicial system to as-
sess whether informant testimony is reliable.

(24) The use of informant testimony without a
system to properly assess its reliability or corrobo-
rate its substance provides fertile ground for ob-
struction of the fair administration of justice.
(25) Therefore, a system to properly assess the reliability of informant testimony, including, but not limited to audio and video recording of all statements provided by informants, should be developed.

(26) The failure to properly educate law enforcement, defense lawyers, prosecutors, judges, juries, and other fact investigators and fact finders about the vulnerabilities inherent in informant testimony enables improper consideration of such testimony, which can seriously undermine the integrity of our criminal justice system.

SEC. 302. ACCURACY AND RELIABILITY OF EVIDENCE IN CRIMINAL CASES; ADDRESSING INFORMATION DISPARITY IN CRIMINAL CASES.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall, in consultation with the Federal Public or Community Defender from the Defender Services Advisory Group, the American Bar Association, the American Law Institute, and other expert organizations, including the Innocence Project and the National District Attorneys Association, create training and best practices to be implemented by Federal prosecutors and law enforcement officers prior to trial, consistent with the constitutional rights of the defendant, that increase protection for the innocent by re-
ducing the inaccuracy and unreliability of evidence relied
upon in criminal cases, including—

(1) procedures and protocols for collecting,
marking, preserving, cataloguing, and handling evi-
dence;

(2) training on interrogation to eliminate coerc-
eive tactics that lead to false or unreliable confes-
sions;

(3) training on interviewing witnesses to elimi-
nate suggestive tactics that lead to false or unreli-
able identifications and memories;

(4) training to eliminate cross-racial identifica-
tion mistakes and collaborating on the criteria for
expert testimony and parameters for model jury in-
structions on cross-racial identification;

(5) training to avoid and discourage the use of
unreliable informant or cooperator testimony;

(6) requiring audio and video recording of all
interviews and interrogations in connection with any
defendant’s prosecution;

(7) promoting a fair and expeditious disposition
of the charges, whether by diversion, plea, or trial,
consistent with defendants’ constitutional rights;

(8) providing the defendant with sufficient in-
formation to make an informed plea;
(9) permitting the defendant to thoroughly prepare for trial and minimize surprise at trial by providing prompt discovery to the defendant;

(10) reducing interruptions and complications during trial to the extent practicable and avoid unnecessary and repetitious trials by identifying and resolving evidentiary disputes prior to trial;

(11) increasing the funding and resources for court-appointed counsel to minimize the procedural and substantive inequities among similarly situated defendants, particularly between defendants represented by court-appoint counsel, pursuant to 18 U.S.C. 3006A, and defendants represented by privately-retained counsel; and

(12) minimizing the burden upon victims, witnesses, counsel, and the taxpayer.

(b) Initial Disclosure to Defendants.—The Attorney General shall instruct Federal prosecutors and law enforcement agents, upon request by the defendant and not later than 14 days after such request, to permit the defendant to inspect and to copy or photograph the full contents of all investigative and case files, excepting only privileged material or attorney work product, to permit inspection, copying, testing, and photographing of dis-
closed documents or tangible objects, including the following documents or tangible objects:

(1) All relevant recorded, written, and oral statements of the defendant or of any codefendant that are within the possession or control of the Government, and any documents relating to the acquisition of such statements.

(2) The names and addresses of all persons known to the Government to have information concerning the offense charged, together with all written statements of any such person that are within the possession or control of the Government and that relate to the subject matter of the offense charged.

(3) The identity of persons the Government intends to call as witnesses at trial.

(4) Any information regarding any inquiry, solicitation, or agreement between the Government and any individual that constitutes an inquiry into or solicitation of cooperation or testimony of the individual.

(5) Any reports or written statements of any expert the Government intends to call as a witness at trial, including results of physical or mental examinations, scientific tests, experiments, compari-
sons, a written description of the substance of the
proposed testimony of the expert, the expert’s opin-
ion, and the underlying basis of that opinion, if that
report or written statement of the expert is material
to preparing the defense or the Government intends
to use the item in its case-in-chief at trial. At the
defendant’s request, the Government must give to
the defendant a written summary of any testimony
that the Government intends to use under the Fed-
eral Rules of Evidence during its case-in-chief at
trial. If the Government requests discovery under
rule 16(b)(1)(C)(ii) of the Federal Rules of Criminal
Procedure and the defendant complies, the Govern-
ment must, at the defendant’s request, give to the
defendant a written summary of testimony that the
Government intends to use the Federal Rules of Evi-
dence as evidence at trial on the issue of the defend-
ant’s mental condition. The summary provided
under this paragraph must describe the witness’s
opinions, the bases and reasons for those opinions,
and the witness’s qualifications.

(6) Any tangible objects, including books, pa-
pers, documents, photographs, buildings, places, or
any other objects, which pertain to the case or which
were obtained from or belong to the defendant, and
the identity of any tangible objects if the item is ma-
terial to preparing the defense or the Government
intends to use the item in its case-in-chief at trial.

(7) Any record of prior criminal convictions,
pending charges, or probationary status of the de-
fendant or of any codefendant or cooperating wit-
ness, and insofar as known to the Government, any
record of convictions, pending charges, or proba-
tionary status that may be used to impeach of any
witness to be called by either party at trial.

(8) Any material, documents, or information re-
lating to lineups, showups, and picture or voice iden-
tifications, if it is relevant to preparing the defense
or the Government intends to use the item in its
case-in-chief.

(9) Any material or information within the Gov-
ernment’s possession or control which tends to ne-
gate the guilt of the defendant as to the offense
charged or would tend to mitigate punishment of the
defendant.

(10) Any evidence of character, reputation, or
other conduct of the defendant that the Government
has investigated.

(11) If the defendant’s conversations or prem-
ises were subject to electronic surveillance (including
wiretapping) in connection with the investigation or prosecution of the case, any transcripts, notes, memos, recordings, or other materials derived from such surveillance.

(12) Any tangible object obtained through a search and seizure, including any information, documents, or other material relating to the acquisition of that object, if the object, information, or document, or material is material to preparing the defense or the Government intends to use that object, information, document, or material in its case-in-chief.

(13) Any evidence that a forensic technician, laboratory, or facility involved in the case has been responsible for an unreliable forensic analysis or questionable conviction in the past.

(c) PROMPT DISCLOSURE OF ADDITIONAL INFORMATION LATER ADDED TO THE INVESTIGATIVE OR CASE FILE.—Upon completing the initial disclosure required under subsection (b), the Government shall, not later than 14 days after information of the sort described in subsection (b) is added to the investigative or case file, disclose the full contents of that additional information, excepting only privileged material or attorney work product, to permit inspection, copying, testing, and photographing
of disclosed documents or tangible objects, including the
documents or tangible objects described in subsection (b),
irrespective of whether the Government intends to rely on
such information at trial and irrespective of whether or
not the Government considers such information material
or exculpatory.

(d) Protective Order.—

(1) In General.—Upon written application by
the Government, the court may grant a protective
order limiting the scope or timing of disclosure re-
quired by this section, or limiting the persons to
whom such disclosure may be made or disseminated.

(2) Requirements for Granting.—The ap-
lication shall be granted only to the extent the Gov-
ernment demonstrates that such disclosure would
cause—

(A) a particularized and substantial risk of
physical harm or intimidation to any person;

(B) the release of information that would
compromise a significant national security in-
terest; or

(C) the violation of privacy rights, pro-
tected by Federal law, of a non-law-enforcement
witness.
(3) **Nature of Order If Granted.**—If granted, the protective order shall be narrowly tailored to limit the scope, timing or extent of disclosure only to the extent necessary to address the particularized need for delayed, limited or nondisclosure, while protecting the defendant’s right to prepare for trial or sentencing to the extent possible.

(4) **Application May Be Ex Parte.**—The written application may be made ex parte so long as the Government provides notice to the defendant of the general nature of the application, and the defendant is given an opportunity to be heard on whether an ex parte application is necessary, whether any protective order is warranted, and the parameters of any protective order. If the application remains sealed, it shall be preserved in the record for appellate review.

**Sec. 303. Notification Relating to Forensic, Prosectorial, or Law Enforcement Misconduct.**

(a) **Notice.**—Not later than 30 days after a finding by the Attorney General that a Federal prosecutor or law enforcement officer involved in a Federal criminal case has engaged in misconduct or a Federal forensic facility or technician has provided flawed analysis or testimony, the
Attorney General shall inform each defendant in whose case that prosecutor, law enforcement officer, forensic facility, or forensic technician was involved.

(b) **Access to Evidence and Case Files for Notified Persons.**—The Attorney General shall permit notified defendants and their counsel access to—

1. the forensic evidence underlying the defendant’s case to be re-tested by another validated Government facility as well as by the defendant’s independent forensic expert at the Government’s expense; and
2. the investigative and prosecutorial case file in the defendant’s case, including any attorney work product.

(c) **Failure to Comply.**—The Attorney General’s failure to comply with any requirement of this section entitles the defendant to appropriate judicial relief.

(d) **Habeas Relief.**—A defendant who receives a notice under subsection (a) and whose conviction has become final is entitled to seek judicial relief under section 2255 of title 28, United States Code, notwithstanding any procedural limitation or bar to such relief, so long as the defendant exercised due diligence in seeking relief after receiving the notice described in subsection (a).
SEC. 304. REMEDIES.

(a) WITHIN THE DEPARTMENT OF JUSTICE.—The Attorney General shall take appropriate disciplinary measures to sanction any failure of a Federal prosecutor or law enforcement officer to comply in good faith with the procedures and requirements created by or under this title.

(b) JUDICIAL REMEDY.—The court may exclude from trial any evidence involved in a failure of a Federal prosecutor or law enforcement officer to comply in good faith with the procedures and requirements created by or under this title.

SEC. 305. TOOLKITS FOR STATE AND LOCAL GOVERNMENT.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall provide toolkits regarding training in best practices developed under this title to State and local governments and encourage them to adopt these practices to reduce the likelihood of wrongful conviction.
TITLE IV—CONCENTRATING PRISON SPACE ON VIOLENT AND CAREER CRIMINALS

Subtitle A—Restoring Original Congressional Intent To Focus Federal Drug Mandatory Minimums Only on Managers, Supervisors, Organizers, and Leaders of Drug Trafficking Organizations and To Avoid Duplicative Prosecution With States

SEC. 401. FOCUSING THE APPLICATION OF FEDERAL MANDATORY MINIMUMS FOR CERTAIN DRUG OFFENSES TO RESTORE ORIGINAL CONGRESSIONAL INTENT RESPECTING THE BALANCE OF POWER BETWEEN THE FEDERAL GOVERNMENT AND THE STATES.

(a) CONTROLLED SUBSTANCES ACT.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end the following:

“(i) CLARIFYING CONGRESSIONAL INTENT REGARDING APPLICATION OF CERTAIN PENALTIES.—(1) The penalties set forth in subparagraph (A) of subsection (b)(1) apply only if—
“(A) the type and quantity of the controlled or counterfeit substance violates subparagraph (A) of subsection (b)(1); and

“(B) the defendant was an organizer or leader of a drug trafficking organization.

“(2) The penalties set forth in subparagraph (B) of subsection (b)(1) apply only if—

“(A) the type and quantity of the controlled or counterfeit substance violates subparagraph (B) of subsection (b)(1); and

“(B) the defendant was an organizer, leader, manager, or supervisor of a drug trafficking organization.

“(3) The penalties set forth in subparagraph (C) of subsection (b)(1) apply only if—

“(A) the type and quantity of the controlled or counterfeit substance violates subparagraph (A),(B), or (C) of subsection (b)(1); and

“(B) the defendant was not a leader, organizer, manager, or supervisor of a drug trafficking organization.

“(4) The penalties set forth in subsection (b)(1)(D) apply only if—

“(A) the defendant’s conduct does not violate paragraphs (1) through (3);
“(B) the defendant’s role was not minor or minimal; and

“(C) the defendant is not a leader, organizer, manager, or supervisor of or otherwise employed by a drug trafficking organization.

“(5) The penalties set forth in section 404 of the Controlled Substances Act shall apply to prosecutions under this section if—

“(A) the defendant’s conduct does not violate paragraphs (1) through (3); and

“(B) the defendant’s role was minor or minimal.

“(C) Notwithstanding subsection (b)(1)(D) or paragraph (4) or (5) of this subsection, any person who violates subsection (a) of this section by distributing a small amount of marijuana for no remuneration shall be treated as provided in section 404 of the Controlled Substances Act and section 3607 of title 18, United States Code.”.

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) so that paragraph (4) reads as follows:

“(4) In the case of less than 50 kilograms of marijuana, except in the case of 50 or more mari-
huana plants regardless of weight, 10 kilograms of hashish, or one kilogram of hashish oil, such person shall, except as provided in paragraphs (4) and (5) of section 401(b), be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or $250,000, if the defendant is an individual or $1,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, United States Code, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, im-
pose a term of supervised release of at least 4 years
in addition to such term of imprisonment.”; and

(2) so that paragraph (5) reads as follows:

“(5) In the case of a violation of subsection (a)
involving a controlled substance in schedule III, such
person shall be sentenced in accordance with para-
graphs (1) through (4) of this subsection and sub-
section (e).”.

(e) CLARIFYING ORIGINAL CONGRESSIONAL INTENT
REGARDING APPLICATION OF CERTAIN PENALTIES.—
Section 1010 of the Controlled Substances Import and Ex-
port Act (21 U.S.C. 960) is amended by adding at the
end the following:

“(e) CLARIFYING ORIGINAL CONGRESSIONAL INTENT
REGARDING APPLICATION OF PENALTIES UNDER THE
CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—
“(1) The penalties set forth in paragraph (1) of
subsection (b) apply only if—

“(A) type and quantity of the controlled or
counterfeit substance violates paragraph (1) of
subsection (b); and

“(B) the defendant was an organizer or
leader of a drug trafficking organization.

“(2) The penalties set forth in paragraph (2) of
subsection (b) apply only—
“(A) the type and quantity of the controlled or counterfeit substance violates paragraph (2) of subsection (b); and

“(B) the defendant was an organizer, leader, manager, or supervisor of a drug trafficking organization.

“(3) The penalties set forth in paragraph (3) of subsection (b) apply only if—

“(A) the type and quantity of the controlled or counterfeit substance violates paragraph (1), (2), or (3) of subsection (b); and

“(B) the defendant was not a leader, organizer, manager, or supervisor of a drug trafficking organization.

“(4) The penalties set forth in paragraph (4) of subsection (b) apply only if—

“(A) the defendant’s conduct does not violate paragraphs (1) through (3);

“(B) the defendant’s role was not minor or minimal; and

“(C) the defendant is not a leader, organizer, manager, or supervisor of or otherwise employed by a drug trafficking organization.
“(5) The penalties set forth in section 404 of
the Controlled Substances Act shall apply to pros-
secutions under section 1010(b) of this Act if—

“(A) the defendant’s conduct does not vio-
late paragraphs (1) through (3); and

“(B) the defendant’s role was minor or
minimal.

“(6) Notwithstanding paragraph (4) of sub-
section (b) or paragraph (4) or (5) of this sub-
section, whoever violates subsection (a) of this sec-
tion by distributing a small amount of marijuana for
no remuneration shall be treated as provided in sec-
section 404 of the Controlled Substances Act and sec-
section 3607 of title 18, United States Code.”.

(d) DEFINITIONS.—Section 102 of the Controlled
Substances Act is amended by adding at the end the fol-
lowing:

“(58)(A) The term ‘participant’ means a person
who is criminally responsible for the commission of
the offense, and does not include a law enforcement
officer or a person acting on behalf of law enforce-
ment.

“(B) The term ‘organizer’ or ‘leader’ means a
person who, over a significant period of time—
“(i) exercised primary decision making authority over the most significant aspects of the criminal activity;

“(ii) engaged in significant planning of the acquisition or distribution of large quantities of drugs or sums of money for the initiation and commission of the offense;

“(iii) recruited and paid accomplices;

“(iv) delegated tasks to other participants on a regular basis;

“(v) received a significantly larger share of the proceeds of the criminal activity than other participants; and

“(vi) exercised supervisory control or authority over at least four other participants in the criminal activity who meet the definition of ‘manager’ or ‘supervisor’ in subsection (d)(3) over a substantial period of time.

“(C) The term ‘manager’ or ‘supervisor’ means a person who, over a significant period of time—

“(i) exercised some decision-making authority over significant aspects of the criminal activity;
“(ii) received a larger share of the proceeds of the criminal activity than most other participants; and

“(iii) provided ongoing, day-to-day supervision of, or specialized training to, at least four other participants over a substantial period of time.

“(D) When used with regards to a defendant’s role in the offense, the term ‘minor’ means the person was not a manager, supervisor, organizer, or leader, and, in comparison with those in the offense who played such roles,

“(i) exercised little decision-making authority over aspects of the criminal activity;

“(ii) had little or no knowledge of the scope, extent, and inner workings of the criminal activity;

“(iii) received small shares of the proceeds of the criminal activity; or

“(iv) was involved in the offense for a short period of time or in a sporadic manner over a long period of time.

“(E) When used with regards to a defendant’s role in the offense, the term ‘minimal’ means the person was not a manager, supervisor, organizer, or
leader, and the person’s involvement in the crime was less substantial than that of a person playing a ‘minor’ role.”.

(e) APPLICABILITY TO OTHER CONTROLLED SUBSTANCES DERIVING THEIR PENALTIES THEREFROM.—

(1) Section 401 of the Controlled Substances Act is amended by adding at the end, as amended by Section 401(a) of this Act:

“(i) The penalties set forth in subsections (b) and (i) of this section shall apply to any provision of law for which the penalties are derived from this section.”.

(2) Section 1010 of the Controlled Substances Import and Export Act is amended by adding at the end, as amended by section 401(c) of this Act:

(f) APPLICATION OF PENALTIES.—The penalties set forth in subsections (b) and (e) of this section shall apply to any provision of law for which the penalties are derived from this section.

SEC. 402. MODIFICATION OF CRITERIA FOR “SAFETY VALVE” LIMITATION ON APPLICABILITY OF CERTAIN MANDATORY MINIMUMS.

(a) IN GENERAL.—Section 3553(f) of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting “or under any provision of law for which
the penalties are derived from any of those sections, or section 924(e) of this title in relation to a drug trafficking crime,” before “the court shall impose”;

(2) so that paragraph (1) reads as follows:

“(1) the defendant—

“(A) does not have a criminal history category higher than category I after any downward departure under the sentencing guidelines;

“(B) does not have—

“(i) criminal history points higher than 4 after any downward departure under the sentencing guidelines; or

“(ii) an offense of conviction that is—

“(I) an offense under section 922 or 924;

“(II) a sex offense (as defined in section 111 of the Adam Walsh Child Protection and Safety Act of 2006);

“(III) a Federal crime of terrorism (as defined in section 2332b(g)(5)); or

“(IV) a racketeering offense under section 1962; or

“(C) committed the offense as the result of—
“(i) mental illness, cognitive deficits, or a history of persistent or serious substance abuse or addiction;

“(ii) trauma suffered while serving on active duty in an armed conflict zone for a branch of the United States military; or

“(iii) victimization stemming from any combination of physical, mental, emotional, or psychological abuse or domestic violence, if the offense was committed at the direction of another individual who—

“(I) was a more culpable participant in the instant offense or played a significantly greater role in the offense; or

“(II) effectively coerced the defendant’s involvement in the offense by means of threats or abuse either directly from the other individual or through any person or group;”;

(3) so that paragraph (2) reads as follows:

“(2) the defendant did not use violence or credible threats of violence in connection with the offense;”; and

(4) so that paragraph (4) reads as follows:
“(4) the defendant was not convicted under section 401 of the Controlled Substances Act or section 1010(b) of the Controlled Substances Import and Export Act for being an organizer, leader, manager, or supervisor of a drug trafficking organization, and was not engaged in a continuing criminal enterprise, as defined in section 408 of the Controlled Substances Act; and”.

(b) LIMITATION ON USE OF CERTAIN INFORMATION TO DETERMINE GUIDELINE RANGE.—Subsection (f)(5) of section 3553 of title 18, United States Code, as amended by section 402(a) of this Act, is amended further by adding at the end the following:

“(h) LIMITATION ON USE OF CERTAIN INFORMATION TO DETERMINE GUIDELINE SENTENCE.—Information and evidence provided by the defendant pursuant to this paragraph shall not be used by the court in determining the applicable guideline range, or in imposing an upward departure or variance.”.

SEC. 403. CONSISTENCY IN THE USE OF PRIOR CONVICTIONS FOR SENTENCING ENHANCEMENTS.

(a) DEFINITION OF FELONY DRUG OFFENSE.—Section 102(44) of the Controlled Substances Act (21 U.S.C. 802(44)) is amended to read as follows:
“(44) For the purpose of increased punishment based on a prior conviction for a ‘felony drug offense’, the term ‘felony drug offense’—

“(A) means an offense under Federal or State law that—

“(i) has as an element the knowing manufacture, distribution, import, export, or possession with intent to distribute a controlled substance;

“(ii) is classified by the applicable law of the jurisdiction as a felony for which a maximum term of imprisonment of 10 years or more is prescribed by law; and

“(iii) for which a sentence of imprisonment exceeding 1 year and 1 month was initially imposed and was not suspended; but

“(B) does not include an offense for which—

“(i) the conviction occurred more than 10 years before the defendant’s commis- sion of the instant offense, excluding any period during which the defendant was in- carcerated;
“(ii) the prosecution relating to the offense was ultimately dismissed, including in a case in which the defendant previously entered a plea of guilty or nolo contendere;

“(iii) the conviction has been reversed, vacated, set aside, or otherwise vitiated by judicial action;

“(iv) the conviction was expunged;

“(v) the defendant has been pardoned or had civil rights restored; or

“(vi) the conviction was unconstitutional under the caselaw of the United States Supreme Court in effect at the time the conviction occurred or after the conviction became final.”.

(b) DEFINITION OF FELONY DRUG TRAFFICKING OFFENSE.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

“(57) For the purpose of increased punishment based on a prior conviction for a ‘drug trafficking offense’, that term has the same meaning as the term ‘felony drug offense’ under subsection(44).”.
(c) Definitions of Related Terms for Chapter 44 of Title 18, United States Code.—Section 924(e)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking “means—” and all that follows through the end of the subparagraph and inserting “means a ‘felony drug offense’ as that term is defined in section 102(44) of the Controlled Substances Act;”;

(2) in subparagraph (B), by inserting “, for which a sentence of imprisonment exceeding 1 year and 1 month was initially imposed and not suspended” after “adult”; and

(3) in subparagraph (C), by striking the period at the end and inserting “, but does not include a conviction for any offense that is not classified as a felony by the applicable law of the jurisdiction or is a conviction of the sort described in subparagraph (B) of section 102(44) of the Controlled Substances Act and does not include any finding that the defendant committed an act of juvenile delinquency that was made more than 10 years before the defendant’s commencement of the instant offense, excluding any period during which the defendant was incarcerated; and”.

(d) REQUIREMENT OF FILING AN INFORMATION.—

Section 924(e) of title 18, United States Code, is amended by adding at the end the following:

“(3) A person may not be sentenced to increased punishment under this subsection unless, before trial or entry of a guilty plea, the United States Attorney files an information with the court and serves a copy on the person or his counsel stating in writing the previous convictions to be relied upon.”.

(e) APPLYING EVIDENCE-BASED PRACTICES FOR AGE-RELATED DECLINES IN RECIDIVISM TO CERTAIN PENALTIES.—

(1) IN GENERAL.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(A) in subparagraph (A)—

(i) in the flush text following clause (viii), by striking “life imprisonment, a fine” and inserting “a term of imprisonment which may not be less than 25 years and not more than life imprisonment, a fine”; and

(ii) in the flush text following clause (viii), by striking “term of life imprison-
ment without release” and inserting “a term of imprisonment which may not be less than 25 years and not more than life imprisonment, a fine”; 

(B) in subparagraph (B), in the flush text following clause (viii), by striking “life imprisonment, a fine” and inserting “a term of imprisonment which may not be less than 25 years and not more than life imprisonment, a fine”; and 

(C) in subparagraph (C), by striking “life imprisonment, a fine” and inserting “a term of imprisonment which may not be less than 25 years and not more than life imprisonment, a fine”.

(2) RETROACTIVE EFFECT.—The amendments made by this subsection apply with respect to convictions occurring before, on, or after the date of the enactment of this Act.

(f) PROCEDURES RELATED TO SEEKING ENHANCED DRUG PENALTIES FOR DRUG TRAFFICKING.—Section 411 of the Controlled Substances Act (21 U.S.C. 851) is amended by striking paragraph (2) of subsection (a) and inserting the following:
“(2) No person who is convicted of an offense under this part shall be sentenced to increased punishment by reason of a prior conviction if—

“(A) except as provided in paragraph (4), the Government fails, before trial, or before entry of a plea of guilty, to file an information with the court and serves a copy of such information on the person or counsel for that person, stating any previous conviction upon which the Government intends to rely for the enhanced penalty;

“(B) the person was not convicted as alleged in the information;

“(C) the conviction is for simple possession of a controlled substance, the offense was classified as a misdemeanor under the law of the jurisdiction in which the proceedings were held, the finding that the defendant committed an act of juvenile delinquency that made more than 10 years before the defendant’s commencement of the instant offense, excluding any period during which the defendant was incarcerated, or the proceedings resulted in a disposition that was not deemed a conviction under that law;
“(D) the conviction has been dismissed, expunged, vacated, or set aside, or for which the person has been pardoned or has had civil rights restored;

“(E) the conviction is invalid; or

“(F) the person is otherwise not subject to an increased sentence as a matter of law.

“(3) An information may not be filed under this section—

“(A) if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed; or

“(B) more than 10 years after the date the judgment for the prior conviction was entered, excluding any period during which the defendant was incarcerated.

“(4) Upon a showing by the Government that facts regarding prior convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining those facts.
“(5) Clerical mistakes in the information, or in
the underlying conviction records, may be amended
at any time prior to the pronouncement of the sen-
tence.

“(6) The Government shall bear the burden of
proof beyond a reasonable doubt regarding the exist-
ence and accuracy of any prior conviction alleged.

“(7) The person with respect to whom the in-
formation was filed may challenge a prior conviction
before sentence is imposed.

“(8) If a prior conviction that was a basis for
increased punishment under this part has been va-
cated in any State or Federal proceeding, or is for
an offense that no longer qualifies as a felony drug
offense under United States Supreme Court or rel-
evant circuit caselaw, the person shall be resen-
tenced to any sentence available under the law at the
time of resentencing, not to exceed the original sen-
tence.”.

(g) INFORMATION FILED BY UNITED STATES AT-
TORNEY.—Paragraph (4) of section 3559(c) of title 18,
United States Code, is amended to read as follows:

“(4) INFORMATION FILED BY UNITED STATES
ATTORNEY.—A person may not be sentenced to in-
creased punishment under this subsection unless, be-
fore trial or entry of a guilty plea, the United States Attorney files an information with the court and serves a copy on the person or his counsel stating in writing the previous convictions to be relied upon.”.

(h) RESENTENCING.—Section 3559(c)(7) of title 18, United States Code, is amended by inserting “not to exceed the original sentence” before the period at the end.

SEC. 404. CLARIFICATION OF APPLICABILITY OF THE FAIR SENTENCING ACT.

(a) DEFENDANTS PREVIOUSLY SENTENCED.—A court that imposed a sentence for a covered offense, may, on motion of the defendant, the Director of the Bureau of Prisons, the attorney for the Government, or the court, impose a reduced sentence as if sections 2 and 3 of the Fair Sentencing Act of 2010 were in effect at the time the covered offense was committed.

(b) DEFINITION OF COVERED OFFENSE.—In this section, the term “covered offense” means a violation of a Federal criminal statute, the statutory penalties for which were modified by section 2 or 3 of the Fair Sentencing Act of 2010 (Public Law 111–220; 124 Stat. 2372), that was committed before August 3, 2010.
SEC. 405. ELIGIBILITY FOR RESENTENCING BASED ON
CHANGES IN LAW.

Section 3582(c) of title 18, United States Code, is amended—

(1) by striking “and” at the end of paragraph (1);

(2) by striking the period at the end of para-
graph (2) and inserting “; and”; and

(3) by adding at the end the following:

“(3) in the case of a defendant who was sen-
tenced to a term of imprisonment for an offense for
which the minimum or maximum term of imprison-
ment was subsequently reduced as a result of the
amendments made by the SAFE Justice Act, upon
motion of the defendant, counsel for the defendant,
counsel for the Government, or the Director of the
Bureau of Prisons, or, on its own motion, the court
may reduce the term of imprisonment consistent
with that reduction, after considering the factors set
forth in subsections (a) and (d) through (g) of sec-
tion 3553 to the extent applicable. If the court does
grant a sentence reduction, the reduced sentence
shall not be less than permitted under current statu-
tory law. If the court denies a motion made under
this paragraph, the movant may file another motion
under this subsection, not earlier than 5 years after
each denial, which may be granted if the offender
demonstrates the offender’s compliance with recidi-
vism-reduction programming or other efforts the of-
fender has undertaken to improve the likelihood of
successful re-entry and decrease any risk to public
safety posed by the defendant’s release. If the court
denies the motion due to incorrect legal conclusions
or facts or other mistakes by the court, probation of-

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SEC. 406. DIRECTIVES TO THE SENTENCING COMMISSION.

(a) GENERALLY.—Pursuant to its authority under
section 994(p) of title 28, United States Code, and in ac-
cordance with this section, the United States Sentencing
Commission shall review and amend its guidelines and its
policy statements applicable topersons convicted of an off-
fense under the Controlled Substances Act (21 U.S.C. 801
et seq.), the Controlled Substances Import and Export Act
(21 U.S.C. 951 et seq.), or any offense deriving its pen-
alties therefrom to ensure that the guidelines and policy
statements are consistent with the amendments made by
this title.

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

sider—
(1) the mandate of the United States Sentencing Commission, under section 994(g) of title 28, United States Code, to formulate the sentencing guidelines in such a way as to “minimize the likelihood that the Federal prison population will exceed the capacity of the Federal prisons”;

(2) the relevant public safety concerns, including the need to preserve limited prison resources for more serious, repeat, and violent offenders;

(3) the intent of Congress that violent, repeat, and high-level drug traffickers who present public safety risks receive sufficiently severe sentences, and that nonviolent, lower- and street-level drug offenders without serious records receive proportionally less severe sentences;

(4) the fiscal implications of any amendments or revisions to the sentencing guidelines or policy statements made by the United States Sentencing Commission;

(5) the appropriateness of, and likelihood of unwarranted sentencing disparity resulting from, use of drug type and quantity as the primary factors determining a sentencing guideline range; and

(6) the need to reduce and prevent racial disparities in Federal sentencing.
(c) General Instruction to Sentencing Commission.—Section 994(h) of title 28, United States Code, is amended to read as follows:

“(h) The Commission shall ensure that the guidelines specify a sentence to a term of imprisonment at or near the maximum term authorized for categories of defendants in which the defendant is 18 years old or older and—

“(1) has been convicted of a felony that is—

“(A) a violent felony as defined in section 924(e)(2)(B) of title 18; or

“(B) an offense under—

“(i) section 401 of the Controlled Substances Act;

“(ii) section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act; or

“(iii) chapter 705 of title 46, United States Code; and

“(2) has previously been convicted of two or more prior offenses, each of which is—

“(A) is classified by the applicable law of the convicting jurisdiction as a felony; and

“(B) is—

“(i) a violent felony as defined in section 924(e)(2)(B) of title 18; or
“(ii) a felony drug offense as defined in section 102(44) of the Controlled Substances Act.”.

SEC. 407. EXCLUSION OF ACQUITTED CONDUCT AND DISCRETION TO DISREGARD MANIPULATED CONDUCT FROM CONSIDERATION DURING SENTENCING.

(a) Acquitted Conduct Not to Be Considered in Sentencing.—Section 3661 of title 18, United States Code, is amended by striking the period at the end and inserting “, except that a court shall not consider conduct of which a person has not been convicted.”.

(b) Providing Discretion to Disregard Certain Factors in Sentencing.—

(1) Title 18, United States Code.—Section 3553 of title 18, United States Code, is amended by adding at the end the following:

“(g) Discretion to Disregard Certain Factors.—A court, in sentencing a defendant convicted under the Controlled Substances Act, the Controlled Substances Import and Export Act, any offense deriving its penalties from either such Act, or an offense under section 924(c) based on a drug trafficking crime, may disregard, in determining the statutory range, calculating the guideline range or considering the factors set forth in section
3553(a), any type or quantity of a controlled substance, counterfeit substance, firearm or ammunition that was determined by a confidential informant, cooperating witness, or law enforcement officer who solicited the defendant to participate in a reverse sting or fictitious stash-house robbery.”.

(2) CONTROLLED SUBSTANCES ACT.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended by adding at the end the following:

“(F) In the case of a person who conspires to commit an offense under this title, the type and quantity of the controlled or counterfeit substance for the offense that was the object of the conspiracy shall be the type and quantity involved in—

“(i) the defendant’s own unlawful acts; and

“(ii) any unlawful act of a co-conspirator that—

“(I) the defendant agreed to jointly undertake;

“(II) was in furtherance of that unlawful act the defendant agreed to jointly undertake; and
“(III) was intended by the defendant.”.

(3) Controlled Substances Import and Export Act.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended by adding at the end the following:

“(8) In the case of a person who conspires to commit an offense under this title, the type and quantity of the controlled or counterfeit substance for the offense that was the object of the conspiracy shall be the type and quantity involved in—

“(A) the defendant’s own unlawful acts; and

“(B) any unlawful act of a co-conspirator that—

“(i) the defendant agreed to jointly undertake;

“(ii) was in furtherance of that unlawful act the defendant agreed to jointly undertake; and

“(iii) was intended by the defendant.”.

(4) Directive to the Sentencing Commission.—Pursuant to its authority under section
994(p) of title 28, United States Code, and in ac-
cordance with this section, the United States Sen-
tencing Commission shall review and amend its
guidelines and policy statements applicable to rel-
evant conduct to ensure that they are consistent
with the amendments made by this section.

(5) DEFINITIONS.—The following definitions
apply in this section:

(A) REVERSE STING.—The term “reverse
sting” means a situation in which a person who
is a law enforcement officer or is acting on be-
half of law enforcement initiates a transaction
involving the sale of a controlled substance,
counterfeit substance, firearms or ammunition
to a targeted individual.

(B) STASH HOUSE.—The term “stash
house” means a location where drugs and/or
money are stored in furtherance of a drug dis-
tribution operation.

(C) FICTITIOUS STASH HOUSE ROB-
BERY.—The term “fictitious stash house rob-
bery” means a situation in which a person who
is a law enforcement officer or is acting on be-
half of law enforcement describes a fictitious
stash house to a targeted individual and invites
the targeted individual to rob such fictitious stash house.

**Subtitle B—Clarification of Congressional Intent on Certain Recidivist Penalties**

**SEC. 408. AMENDMENTS TO ENHANCED PENALTIES PROVISION.**

Section 924(c) of title 18, United States Code, is amended—

1. in paragraph (1)(C), by striking, “In the case of a second or subsequent conviction under this subsection” and inserting “If any person commits a violation under this subsection after a prior conviction under this subsection has become final”;

2. in clause (i), by striking “not less than 25 years” and inserting “not less than 15 years.”; and

3. by adding at the end the following:

“(6) In this subsection, the term ‘during and in relation to’ does not include any possession not on the person of, or within arm’s reach and otherwise readily and immediately accessible to the defendant at the time and place of the offense.”.
Subtitle C—Expanding the Ability To Apply for Compassionate Release

SEC. 409. ABILITY TO PETITION FOR RELEASE TO EXTENDED SUPERVISION FOR CERTAIN PRISONERS WHO ARE MEDICALLY INCAPACITATED, GERIATRIC, OR CAREGIVER PARENTS OF MINOR CHILDREN AND WHO DO NOT POSE PUBLIC SAFETY RISKS.

(a) Eligibility.—Subparagraph (A) of section 3582(c)(1) of title 18, United States Code, is amended to read as follows:

“(A) the court, upon motion of the defendant, the Director of the Bureau of Prisons, or on its own motion, may reduce the term of imprisonment after considering the factors set forth in section 3553(a) to the extent they are applicable, if it finds that—

“(i) extraordinary and compelling reasons warrant such a reduction; or

“(ii) the defendant—

“(I) is at least 60 years of age;

“(II) has an extraordinary health condition; or

“(III) has been notified that—
“(aa) the primary caregiver of the defendant’s biological or adopted child under the age of 18 has died or has become medically, mentally, or psychologically incapacitated;

“(bb) the primary caregiver is therefore unable to care for the child any longer; and

“(cc) other family members or caregivers are unable to care for the child, such that the child is at risk of being placed in the foster care system; and”.

(b) INELIGIBILITY AND PROCEDURE.—Section 3582 of title 18, United States Code, is amended by adding at the end the following:

“(e) INELIGIBILITY.—No prisoner is eligible for a modification of sentence under subsection (c)(1)(A) if the prisoner is serving a sentence of imprisonment for any of the following offenses:

“(1) A Federal conviction for homicide in which the prisoner was proven beyond a reasonable doubt to have had the intent to cause death and death re-
“(2) A Federal crime of terrorism, as defined under section 2332b(g)(5).

“(3) A Federal sex offense, as described in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911).

“(f) REQUIREMENTS FOR CERTAIN MOTIONS.—If the prisoner makes a motion under subsection (c)(1)(A) on the basis of an extraordinary health condition or the death or incapacitation of the primary caregiver of the prisoner’s minor child, that prisoner shall provide documentation, as the case may be—

“(1) setting forth a relevant diagnosis regarding the extraordinary health condition; or

“(2) that—

“(A) the requirements of subsection (c)(1)(A)(ii)(III) are met; and

“(B) the prisoner’s release—

“(i) is in the best interest of the child; and

“(ii) would not endanger public safety.

“(g) PROCEDURE FOR COURT DETERMINATION.—(1) Upon receipt of a prisoner’s motion under subsection (c)(1)(A), the court, after obtaining relevant contact information from the Attorney General, shall send notice of the motion to the victim or victims, or appropriate surviving
relatives of a deceased victim, of the crime committed by
the prisoner. The notice shall inform the victim or victims
or surviving relatives of a deceased victim of how to pro-
vide a statement prior to a determination by the court on
the motion.

“(2) Not later than 60 days after receiving a pris-
oner’s motion for modification under subsection (c)(1)(A),
the court shall hold a hearing on the motion if the motion
has not been granted.

“(3) The court shall grant the modification under
subsection (c)(1)(A) if the court determines that—

“(A) the prisoner meets the criteria pursuant to
section (c)(1)(A); and

“(B) there is a low likelihood that the prisoner
will pose a risk to public safety.

“(4) In determining a prisoner’s motion for a modi-
fication of sentence under subsection (c)(1)(A) the court
shall consider—

“(A) the age of the prisoner and years served
in prison;

“(B) the criminogenic needs and risk factors of
the offender;

“(C) the prisoner’s behavior in prison;

“(D) an evaluation of the prisoner’s community
and familial bonds;
“(E) an evaluation of the prisoner’s health; and
“(F) a victim statement, if applicable, pursuant

to paragraph (1).
“(h) ACTIONS WITH RESPECT TO SUCCESSFUL MO-
TION.—If the court grants the prisoner’s motion pursuant

to subsection (c)(1)(A), the court shall—
“(1) reduce the term of imprisonment for the

prisoner in a manner that provides for the release of

the prisoner not later than 30 days after the date

on which the prisoner was approved for sentence

modification;
“(2) modify the remainder of the term of im-

prisonment to home confinement or residential re-

entry confinement with or without electronic moni-

toring; or
“(3) lengthen or impose a term of supervised

release so that it expires on the same date as if the

defendant received no relief under subsection

(c)(1)(A).
“(i) SUBSEQUENT MOTIONS.—If the court denies a

prisoner’s motion pursuant to subsection (c)(1)(A), the

prisoner may not file another motion under subsection

(c)(1)(A) earlier than one year after the date of denial.

If the court denies the motion due to incorrect legal con-

clusions or facts or other mistakes by the court, probation
officer, or counsel, the prisoner may file another motion under that subsection without regard to this limitation. “(j) DEFINITION.—In this section, the term ‘extraordinary health conditions’ means a condition afflicting a person, such as infirmity, significant disability, or a need for advanced medical treatment or services not readily or reasonably available within the correctional institution.”.

(c) EFFECTIVE DATE.—The amendments made by this section take effect 1 year after the date of the enactment of this Act.

TITLE V—ENCOURAGING ACCOUNTABILITY WITH GREATER USE OF EVIDENCE-BASED SENTENCING ALTERNATIVES FOR LOWER-LEVEL OFFENDERS

SEC. 501. ELIGIBILITY FOR PREJUDGEMENT PROBATION.

Section 3607(a)(1) of title 18, United States Code, is amended by striking “been convicted of violating a Federal or State law relating to controlled substances” and inserting “been convicted of a felony under the Controlled Substances Act, the Controlled Substances Import and Export Act, or any other Federal offense deriving its penalties from either such Act”.
SEC. 502. SENTENCE OF PROBATION.

Subsection (a) of section 3561 of title 18, United States Code, is amended to read as follows:

“(a) IN GENERAL.—

“(1) PROBATION GENERALLY AVAILABLE.—Except as provided in paragraph (2), a defendant who has been found guilty of an offense may be sentenced to probation.

“(2) GENERAL EXCEPTIONS.—A defendant may not be sentenced to probation if—

“(A) the offense is a Class A or Class B felony and the defendant is an individual;

“(B) the offense is an offense for which probation has been expressly precluded; or

“(C) the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense that is not a petty offense.

“(3) PRESUMPTION OF PROBATION FOR CERTAIN OFFENDERS.—The court shall sentence an otherwise eligible defendant to probation, if the defendant is a first-time Federal offender whose place of residence allows for Federal probation supervision and who did not engage in violent conduct as a part of the offense, unless the court, having considered the nature and circumstances of the offense and the
history and characteristics of the defendant, finds on
the record that a term of probation would not be ap-
propriate. However, a defendant convicted of a Fed-
eral sex offense, as described in section 111 of the
Sex Offender Registration and Notification Act, is
not subject to a presumption of probation under this
paragraph.”.

SEC. 503. DIRECTIVE TO THE SENTENCING COMMISSION
REGARDING USE OF PROBATION.

(a) Directive to the Sentencing Commission.—
Pursuant to its authority under section 994(p) of title 28,
United States Code, and in accordance with this section,
the United States Sentencing Commission shall review and
amend its guidelines and its policy statements applicable
to persons eligible for probation to ensure that the guide-
lines and policy statements are consistent with the amend-
ments made by section 501.

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

(1) the mandate of the United States Sen-
tencing Commission, under section 994(g) of title
28, United States Code, to formulate the sentencing
guidelines in such a way as to “minimize the likeli-
hood that the Federal prison population will exceed
the capacity of the Federal prisons’;

(2) the fiscal implications of any amendments;

(3) relevant public safety concerns and the stat-
utory sentencing factors under section 3553 of title
18; and

(4) the intent of Congress that prison be re-
served for serious offenders for whom prison is most
appropriate.

SEC. 504. ESTABLISHING ACCOUNTABILITY EVIDENCE-
BASED PROBLEM SOLVING COURT PRO-
GRAMS.

(a) IN GENERAL.—Part II of title 18, United States
Code, is amended by inserting after chapter 207 the fol-
lowing:

“CHAPTER 207A—PROBLEM-SOLVING
COURT PROGRAMS

§3157. Establishment of problem-solving court pro-
grams

“(a) In General.—A United States district court
may establish a problem-solving court program in its dis-
trict.
“(b) Use of Research-Based Principles and Practices.—The Director of the Administrative Office of the United States Courts shall ensure that all Federal courts have available to them current information and research relating to best practices for reducing participant recidivism through problem-solving court programs.

“(c) Information Sharing Among Courts.—The United States Sentencing Commission, pursuant to its authority under section 995(a)(12)(A) of title 28 to serve as a clearinghouse and information center, shall provide a website where United States District Court problem-solving court programs may post and share research, documents, best practices, and other information with each other and the public.

“(d) Best Practices.—The Director of the Administrative Office of the United States Courts shall ensure all Federal courts adhere to the following best practices:

“(1) Focus problem-solving court program resources on offenders facing prison terms to ensure that a problem-solving court program functions to divert that offender from incarceration and ensures that the penalty for noncompliance with the program does not exceed what would have the original penalty or sentence for the offense;

“(2) Adopt objective admission criteria;
“(3) Use the pre-plea rather than the post-plea model;

“(4) Ensure due process protections;

“(5) Incorporate evidence-based health measures, not simply abstinence, into substance abuse problem-solving court program goals to ensure that the underlying health issue is addressed instead of merely being punished; and

“(6) Improve overall treatment quality and employ opioid maintenance treatments for substance abuse problem-solving court programs as well as other evidence-based therapies.

“§ 3158. Evaluation of problem-solving court programs

“The Judicial Conference shall ensure that each Federal problem-solving court program, not later than 1 year after the date of its commencement of operations, adopts a plan to measure its success in reducing recidivism and costs.

“§ 3159. Definitions

“In this chapter—

“(1) the term ‘problem-solving court program’ means a judge-involved intensive intervention, supervision, and accountability process in which a defendant participates, either before conviction, sentencing,
or other disposition or upon being sentenced to a term of probation or upon release from a sentence of incarceration, that may include substance abuse, mental health, employment, and veterans’ programs; and

“(2) the term ‘problem-solving court program coordinator’ means an existing employee of the United States Courts who is responsible for coordinating the establishment, staffing, operation, evaluation, and integrity of the problem solving court program.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 207 the following new item:

“207A. Problem-solving court programs .................................. 3157”.

TITLE VI—IMPLEMENTING EVIDENCE-BASED PRACTICES TO REDUCE RECIDIVISM

Subtitle A—Revision of Statutory Sentence Credits

SEC. 601. DELIVERY AND INCENTIVES TO COMPLETE IN-PRISON RECIDIVISM REDUCTION PROGRAMMING.

(a) In General.—Section 3621(e) of title 18, United States Code, is amended to read as follows:
“(e) IN-PRISON PROGRAMMING.—

“(1) IN-PRISON PROGRAMMING.—In order to carry out the requirement of subsection (b) that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, and to address the criminogenic needs of Federal offenders more generally, the Director of the Bureau of Prisons shall, subject to the availability of appropriations—

“(A) provide residential substance abuse treatment for all eligible offenders, with priority for such treatment accorded based on eligible prisoners’ proximity to release date;

“(B) provide cognitive-based therapy for all eligible offenders;

“(C) provide workforce development through participation in the Federal Prison Industries; and

“(D) provide vocational and occupational training.

“(2) INCENTIVES FOR PRISONER’S SUCCESSFUL COMPLETION OF PROGRAMMING.—

“(A) Any prisoner who in the judgment of the Director of the Bureau of Prisons has successfully completed a program of residential
substance abuse treatment or cognitive behavioral therapy provided under paragraph (1) of this subsection shall be eligible for a reduction of incarceration by up to one year.

“(B) Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has completed at least 30 days of work for Federal Prison Industries or vocational and occupational training shall be eligible to have the total period of incarceration reduced by up to the total number of days of work for Federal Prison Industries or vocational and occupational training, but not to exceed one year.

“(3) Restrictions on reductions in the period of custody.—Reductions in the period of incarceration earned under paragraph (2) of this subsection shall not exceed one year.”.

(b) Corresponding Amendments to Existing Law.—Section 3624(a) of title 18, United States Code, is amended by striking “as provided in subsection (b)” and inserting “as provided in subsection (b) and section 3621(e) and section 3621A(d)(3)”.

(e) Transition.—The amendments made by this section shall take effect on the date not later than 1 year after the date of the enactment of this section.
SEC. 602. POSTSENTENCING RISK AND NEEDS ASSESSMENT SYSTEM AND IN-PRISON RECIDIVISM REDUCTION PROGRAMMING.

(a) Development of System.—

(1) Generally.—Not later than one year after the date of the enactment of this section, the Attorney General shall develop an offender risk and needs assessment system, which shall—

(A) assess and determine the criminogenic needs and risk factors of all admitted offenders;

(B) be used to assign each prisoner to appropriate recidivism reduction programs or productive activities based on the prisoner’s specific criminogenic needs and risk factors; and

(C) in accordance with section 3621A(d)(1) and (2) of title 18, United States Code, document eligible prisoners’ required recidivism reduction programs or productive activities in a case plan and their progress in completing the elements of that case plan.

(2) Research and best practices.—In designing the offender risk and needs assessment system, the Attorney General shall use available research and best practices in the field and consult with academic and other criminal justice experts as appropriate.
(3) Risk and Needs Assessment Tool.—In carrying out this subsection, the Attorney General shall prescribe a suitable intake assessment tool to be used in carrying out subparagraphs (A) and (B) of paragraph (1), and suitable procedures to complete the documentation described in subparagraph (C) of paragraph (1). The Attorney General shall ensure that the assessment tool produces consistent results when administered by different people, in recognition of the need to ensure interrater reliability.

(4) Validation.—In carrying out this subsection, the Attorney General shall statistically validate the assessment tool on the Federal prison population not later than 2 years after the date of the enactment of this subsection.

(b) Use of Risk and Needs Assessment System by Bureau of Prisons.—Subchapter C of chapter 229 of title 18, United States Code, is amended by inserting after section 3621 the following:

“§3621A. Post-sentencing risk and needs assessment system

“(a) Assignment of Recidivism Reduction Programs or Productive Activities.—In recognition that some activities or excessive programming may be counter-
productive for some prisoners, the Attorney General may provide guidance to the Director of the Bureau of Prisons on the quality and quantity of recidivism reduction programming or productive activities that are both appropriate and effective for each prisoner.

“(b) BUREAU OF PRISONS TRAINING.—The Attorney General shall develop protocols and programs for Bureau of Prisons personnel responsible for using the Post-Sentencing Risk and Needs Assessment System (hereinafter in the section referred to as the ‘Assessment System’) created under the SAFE Justice Act. Such training protocols shall include a requirement that such personnel demonstrate competence in administering the assessment tool, including interrater reliability, on a biannual basis.

“(c) QUALITY ASSURANCE.—In order to ensure that the Director of the Bureau of Prisons is using the Assessment System in an appropriate and consistent manner, the Attorney General, the Government Accountability Office, and the Office of the Inspector General shall monitor and assess the use of the Assessment System and shall conduct separate and independent periodic audits of the use of the Assessment System at Bureau of Prisons facilities.

“(d) EVIDENCE-BASED ASSESSMENT SYSTEM AND RECIDIVISM REDUCTION PROGRAMMING.—
“(1) IN GENERAL.—The Director of the Bureau of Prisons shall develop a case plan that targets the criminogenic needs and risk factors of each eligible prisoner—

“(A) to guide the prisoner’s rehabilitation while incarcerated; and

“(B) to reduce the likelihood of recidivism after release.

“(2) CASE PLANS.—

“(A) CONTENT.—Not later than 30 days after a prisoner’s initial admission, the Director of the Bureau of Prisons shall complete a case plan for that prisoner. The plan shall—

“(i) include programming and treatment requirements based on the prisoner’s identified criminogenic needs and risk factors, as determined by the Assessment System;

“(ii) ensure that a prisoner whose criminogenic needs and risk factors do not warrant recidivism reduction programming participates in and successfully complies with productive activities, including prison jobs; and
“(iii) ensure that each eligible prisoner participates in and successfully complies with recidivism reduction programming or productive activities, including prison jobs, throughout the entire term of incarceration of the prisoner.

“(B) TIME CONSTRAINTS.—The Director of the Bureau of Prisons shall ensure that the requirements set forth in the case plan are feasible and achievable prior to the prisoner’s release eligibility date.

“(C) NOTICE TO PRISONER.—The Director of the Bureau of Prisons shall—

“(i) provide the prisoner with a written copy of the case plan and require the prisoner’s case manager to explain the conditions set forth in the case plan and the incentives for successful compliance with the case plan; and

“(ii) review the case plan with the prisoner once every 6 months after the prisoner receives the case plan to assess the prisoner’s progress toward successful compliance with the case plan and any
need or eligibility for additional or different programs or activities.

“(3) INCENTIVE FOR PRISONER’S SUCCESSFUL COMPLIANCE WITH CASE PLAN REQUIREMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), the Director of the Bureau of Prisons shall, in addition to any other credit or reduction a prisoner receives under any other provision of law, award earned time credit toward service of the prisoner’s sentence of 10 days for each calendar month of successful compliance with the prisoner’s case plan. A prisoner who is detained before sentencing shall earn credit for participating in programs or activities during that period under this paragraph. The total time credits that a prisoner may earn under this paragraph shall not exceed 120 days for any year of imprisonment. A prisoner may receive credit at the end of each year of the sentence being served, beginning at the end of the first year of the sentence. For purposes of this section, the first year of the sentence shall begin on the date the sentence commenced under section 3585(a) less any credit for prior custody under section 3585(b). Any
credits awarded under this section shall vest on the date the prisoner is released from custody.

“(B) AVAILABILITY.—An eligible prisoner may receive under subparagraph (A) credit for successful compliance with case plan requirements for participating in programs or activities before the date of enactment of this Act if the Director of the Bureau of Prisons determines that such programs or activities were the same or equivalent to those created pursuant to this section before the date of the enactment of this subsection.

“(C) EXCLUSIONS.—No credit shall be awarded under this paragraph to any prisoner serving a sentence of imprisonment for conviction for any of the following offenses:

“(i) A Federal conviction for homicide in which the prisoner was proven beyond a reasonable doubt to have had the intent to cause death and death resulted.

“(ii) A Federal crime of terrorism, as defined under section 2332b(g)(5).

“(iii) A Federal sex offense, as described in section 111 of the Sex Offender
Registration and Notification Act (42 U.S.C. 16911).

“(D) PARTICIPATION BY INELIGIBLE PRISONERS.—The Director of the Bureau of Prisons shall make all reasonable efforts to ensure that every prisoner participates in recidivism reduction programming or productive activities, including a prisoner who is excluded from earning time credits.

“(E) OTHER INCENTIVES.—The Director of the Bureau of Prisons shall develop policies to provide appropriate incentives for successful compliance with case plan requirements, in addition to the earned time credit described in subparagraph (A), including incentives for prisoners who are precluded from earning credit under subparagraph (C). Such incentives may include additional commissary, telephone, or visitation privileges for use with family, close friends, mentors, and religious leaders.

“(F) PENALTIES.—The Director of the Bureau of Prisons shall amend its Inmate Discipline Program to reduce credits previously earned under subparagraph (A) for prisoners who violate the rules of the institution in which
the prisoner is imprisoned, a recidivism reduction program, or a productive activity, which shall provide—

“(i) levels of violations and corresponding penalties, which may include loss of earned time credits;

“(ii) that any loss of earned time credits shall not apply to future earned time credits that the prisoner may earn subsequent to a rule violation; and

“(iii) a procedure to restore earned time credits that were lost as a result of a rule violation based on the prisoner’s individual progress after the date of the rule violation.

“(4) Recidivism Reduction Programming and Productive Activities.—Beginning not later than one year after the date of the enactment of the SAFE Justice Act, the Attorney General shall, subject to the availability of appropriations, make available to all eligible prisoners appropriate recidivism reduction programming or productive activities, including prison jobs. The Attorney General may provide such programming and activities by entering into partnerships with any of the following:
“(A) Nonprofit organizations, including faith-based and community-based organizations that provide recidivism reduction programming, on a paid or volunteer basis.

“(B) Educational institutions that will deliver academic classes in Bureau of Prisons facilities, on a paid or volunteer basis.

“(C) Private entities that will, on a paid or volunteer basis—

“(i) deliver occupational and vocational training and certifications in Bureau of Prisons facilities;

“(ii) provide equipment to facilitate occupational and vocational training or employment opportunities for prisoners;

“(iii) employ prisoners; or

“(iv) assist prisoners in prerelease custody or supervised release in finding employment.

“(e) DEFINITIONS.—In this section the following definitions apply:

“(1) CASE PLAN.—The term ‘case plan’ means an individualized, documented accountability and behavior change strategy developed by the Director of the Bureau of Prisons to prepare offenders for re-
lease and successful reentry into the community.

The case plan shall focus on the offender’s criminogenic needs and risk factors that are associated with the risk of recidivism.

“(2) Criminogenic needs and risk factors.—The term ‘criminogenic needs and risk factors’ means characteristics and behaviors that are associated with the risk of committing crimes and that when addressed through evidence-based programming are diminished. These factors include but are not limited to—

“(A) criminal thinking;

“(B) criminal associates;

“(C) antisocial behavior and personality;

“(D) dysfunctional family;

“(E) low levels of employment;

“(F) low levels of education;

“(G) substance abuse;

“(H) mental health issues or cognitive deficits; and

“(I) poor use of leisure time.

“(3) Dynamic risk factor.—The term ‘dynamic risk factor’ means a characteristic or attribute that has been shown to be associated with risk of recidivism and that can be modified based on
a prisoner’s actions, behaviors, or motives, including through completion of appropriate programming or other means in a prison setting.

“(4) ELIGIBLE PRISONER.—The term ‘eligible prisoner’ means—

“(A) a prisoner serving a sentence of incarceration for conviction of a Federal offense; but

“(B) does not include any prisoner who the Bureau of Prisons determines—

“(i) would present a danger to himself or others if permitted to participate in recidivism reduction programming; or

“(ii) is serving a sentence of incarceration of less than 1 month.

“(5) PRODUCTIVE ACTIVITY.—The term ‘productive activity’ means a group or individual activity, including holding a job as part of a prison work program, that is designed to allow prisoners whose criminogenic needs and risk factors do not warrant recidivism reduction programming.

“(6) RECIDIVISM REDUCTION PROGRAM.—The term ‘recidivism reduction program’ means a group or individual activity that—
“(A) is of a kind that has been shown empirically to reduce recidivism or promote successful reentry; and

“(B) may include—

“(i) substance abuse treatment;

“(ii) classes on social learning and life skills;

“(iii) classes on morals or ethics;

“(iv) academic classes;

“(v) cognitive behavioral treatment;

“(vi) mentoring;

“(vii) occupational and vocational training;

“(viii) faith-based classes or services;

and

“(ix) victim-impact classes or restorative justice programs.

“(7) RECIDIVISM RISK.—The term ‘recidivism risk’ means the likelihood that a prisoner will commit additional crimes for which the prisoner could be prosecuted in a Federal, State, or local court in the United States.

“(8) RECOVERY PROGRAMMING.—The term ‘recovery programming’ means a course of instruction or activities that has been demonstrated to reduce
substance abuse or dependence among participants,
or to promote recovery among individuals who have
substance abuse issues.

“(9) RELEASE ELIGIBILITY DATE.—The term
‘release eligibility date’ means the earliest date at
which the offender could be released after accruing
the maximum number of earned time credits for
which the offender is eligible.

“(10) SUCCESSFUL COMPLIANCE.—The term
‘successful compliance’ means that the person in
charge of the Bureau of Prisons penal or correc-
tional facility or that person’s designee has deter-
mined that the eligible prisoner, to the extent prac-
ticable, and excusing any medical or court-related
absences satisfied the following requirements for not
less than 30 days:

“(A) Regularly attended and actively par-
ticipated in appropriate recidivism reduction
programs or productive activities, as set forth
in the eligible prisoner’s case plan.

“(B) Did not regularly engage in disrup-
tive activity that seriously undermined the ad-
ministration of a recidivism reduction program
or productive activity.
“(11) **Earned Time Credits.**—The term ‘earned time credits’ means credit toward service of the prisoner’s sentence as described in subsection (d)(3).”.

(c) **Clerical Amendment.**—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended by inserting after the item relating to section 3621 the following:

“3621A. Postsentencing risk and needs assessment system.”.

**Subtitle B—De-escalation Training and Improving Community Relations**

**SEC. 603. DE-ESCALATION TRAINING.**

(a) **In General.**—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall, in consultation with the Substance Abuse and Mental Health Services Administration, and subject to the availability of appropriations, provide to criminal justice agencies specialized and comprehensive training in procedures to avoid racial and ethnic profiling, de-escalate encounters between law enforcement or corrections officers and civilians, inmates, or detainees, and to identify and appropriately respond to incidents in which the unique needs of individuals who have a mental illness or cognitive deficit are involved, and improve police-community relations.
(b) DEFINITION OF CRIMINAL JUSTICE AGENCIES.—

In this section the term “criminal justice agencies” include—

(1) Federal corrections agencies and any contractors carrying out corrections functions;

(2) Federal law enforcement agencies, including Federal prosecutors; and

(3) other Federal criminal justice agencies that the Attorney General deems appropriate.

Subtitle C—Oversight of Mental Health and Substance Abuse Treatment

SEC. 604. AUTHORIZING GRANTS TO STATES FOR THE USE OF MEDICATION-ASSISTED TREATMENT FOR HEROIN, OPIOID, OR ALCOHOL ABUSE IN RESIDENTIAL SUBSTANCE ABUSE TREATMENT.

(a) IN GENERAL.—Section 1904 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–3) is amended—

(1) in subsection (d), by striking “pharmacological treatment” and inserting “pharmacological treatment or medication assisted treatment not subject to diversion”; and

(2) by adding at the end the following:
“(e) DEFINITIONS.—In this section—

“(1) the term ‘medication assisted treatment’
means the use of medications approved by the Food
and Drug Administration, in combination with coun-
seling or behavioral therapies, to treat heroin, opioid,
or alcohol addiction; and

“(2) the term ‘opioid’ means any chemical that
binds to an opioid receptor and resembles opiates in
its pharmacological effects.”.

(b) REPORT ON MEDICATION ASSISTED TREATMENT
FOR OPIOID AND HEROIN ABUSE PILOT PROGRAM.—The
Director of the Bureau of Prisons shall submit within 90
days of enactment of this Act to the Committees on the
Judiciary and Appropriations of the Senate and House of
Representatives a report and evaluation of the current
pilot program within the Bureau of Prisons to treat heroin
and opioid abuse through medication assisted treatment.
The report shall include a description of plans to expand
access to medication assisted treatment for heroin and
opioid abuse for Federal prisoners in appropriate cases.

(c) REPORT ON THE AVAILABILITY OF MEDICATION
ASSISTED TREATMENT FOR OPIOID AND HEROIN
ABUSE.—Within 90 days after the date of the enactment
of this Act, the Director of the Administrative Office of
the United States Courts shall submit a report to the
Committees on the Judiciary and Appropriations of the Senate and the House of Representatives assessing the availability of and capacity for the provision of medication assisted treatment for opioid and heroin abuse among treatment-service providers serving Federal offenders under supervised release and including a description of plans to expand access to medication assisted treatment that is not subject to diversion for heroin and opioid abuse whenever appropriate among Federal offenders under supervised release.

SEC. 605. PERFORMANCE-BASED CONTRACTING FOR RESIDENTIAL REENTRY CENTERS.

(a) In general.—The Director of the Bureau of Prisons shall—

(1) revise its policies and procedures related to contracting with providers of Residential Reentry Centers to—

(A) meet the standards of performance-based contracting; and

(B) include, among the standards of performance—

(i) a reduction in the recidivism rate of offenders transferred to the Residential Reentry Center; and
(ii) an annual evaluation of these outcomes;

(2) require that new or renewed contracts with providers of Residential Reentry Centers meet the standards of performance-based contracting;

(3) review existing contracts with providers of Residential Reentry Centers prior to renewal and update as necessary to reflect the standards of performance-based contracting; and

(4) ensure performance-based contracts are actively managed to meet the standards of performance-based contracting.

(b) EXCEPTIONS.—In those cases where it would not be cost effective to use performance-based contracting standards, the Director of the Bureau of Prisons shall provide an explanation for this determination to the Attorney General, who may exempt a contract from the requirements outlined in subsection (a)(2). Each exemption must be approved in writing by the Attorney General before the Director of the Bureau of Prisons enters into the contract.

(c) DEFINITIONS.—In this section the following definitions apply:

(1) PERFORMANCE-BASED CONTRACTING.—The term “performance-based contracts” means contracts that accomplish the following:
(A) Identify expected deliverables, performance measures, or outcomes; and render payment contingent upon the successful delivery of those expected deliverables, performance measures or outcomes.

(B) Include a quality assurance plan that describes how the contractor’s performance will be measured against the expected deliverables, performance measures, or outcomes.

(C) Include positive and negative incentives tied to the quality assurance plan measurements.

(2) Recidivism Rate.—The term “recidivism rate” refers to the number and percentage of offenders who are arrested for a new crime or commit a technical violation of the terms of supervision that results in revocation to prison during the period in which the offender is in the Residential Reentry Center.

(3) Residential Reentry Centers.—The term “Residential Reentry Centers” means privately run centers which provide housing to Federal prisoners who are nearing release.

(d) Deadline for Carrying Out Section.—The Director of the Bureau of Prisons shall complete initial
compliance with the requirements of this section not later than 1 year after the date of the enactment of this Act.

(e) Evaluation.—Not later than 2 years after the date of the enactment of this Act, the Government Accountability Office and Office of the Inspector General of the Department of Justice shall each issue a report on the progress made by the Director of the Bureau of Prisons in implementing this section.

Subtitle D—Implementing Swift, Certain, and Proportionate Sanctions for Violations of Conditions of Probation or Supervised Release

SEC. 606. GRADUATED SANCTIONING SYSTEM.

(a) In General.—Not later than 1 year after the date of the enactment of this section, the United States Probation and Pretrial Services and the Criminal Law Committee of the Judicial Conference shall develop a standardized graduated sanctioning system (hereinafter in this section referred to as the “system”), to guide probation officers in determining suitable sanctions in response to technical violations of supervision. The United States Sentencing Commission shall publish these factors and amend its guidelines and policy statements so that they are consistent. The system shall—
(1) provide a range of possible sanctions, from less severe to more severe; and

(2) allow officers to respond quickly to technical violations of supervision.

(b) DEVELOPMENT OF GRADUATED SANCTIONING SYSTEM.—In designing the graduated sanctioning system, the United States Probation and Pretrial Services and the Criminal Law Committee of the Judicial Conference shall use available research and best evidence-based practices in the field, and shall consult with other stakeholders, including current trial attorneys from the Department of Justice and a Federal Public or Community Defender from the Defender Services Advisory Group.

(c) CONTENT OF GRADUATED SANCTIONING SYSTEM.—

(1) Graduated sanctions may include—

(A) verbal warnings;

(B) increased reporting requirements;

(C) curfew requirements;

(D) electronic monitoring;

(E) increased substance abuse testing or treatment;

(F) mental health counseling or treatment;

(G) behavioral therapy or anger management;
(H) community service; and

(I) loss of earned discharge credits pursuant to section 3610.

(2) In determining appropriate sanctions, the United States Probation and Pretrial Services and the Criminal Law Committee of the Judicial Committee shall consider—

(A) the severity of the current violation;

(B) the number and severity of previous supervision violations;

(C) the rehabilitative options available; and

(D) the costs of incarceration.

(d) Probation and Pretrial Services Training.—The Criminal Law Committee of the Judicial Conference and the United States Probation and Pretrial Services, in consultation with the Federal Judicial Center, shall develop training protocols for staff responsible for recommending graduated sanctions and for court-appointed counsel, which shall include—

(1) initial training to educate staff and judges on how to use the graduated sanctioning system, as well as an overview of the relevant research regarding supervision practices shown to reduce recidivism and improve offender outcomes;

(2) continuing education; and
(3) periodic training updates.

e) CONTINUOUS QUALITY IMPROVEMENT.—In order to ensure that the United States Probation and Pretrial Services is using graduated sanctions in an appropriate and consistent manner, the Judicial Conference in consultation and coordination with the Chief Judge of each Federal District Court shall—

(1) establish performance benchmarks and performance assessments for probation officers, probation supervisors, and probation and pretrial services; and

(2) establish additional continuous quality improvement procedures related to the implementation and use of graduated sanctions that include, but are not limited to, data collection, monitoring, periodic audits, probation officer and supervisor performance assessments, and corrective action measures.

SEC. 607. GRADUATED RESPONSES TO TECHNICAL VIOLATIONS OF SUPERVISION.

(a) IN GENERAL.—Subchapter A of chapter 229 of title 18, United States Code, is amended by inserting after section 3608 the following:
§ 3609. Graduated responses to technical violations of supervision

(a) In general.—If a court determines that a technical violation of supervision warrants an alternative to arrest or incarceration, the court may modify the terms of supervision by imposing a graduated sanction as an alternative to revocation.

(b) Recommendation and imposition of graduated sanctions.—A probation officer in recommending an appropriate sanction, and a court in determining an appropriate sanction, shall use the graduated sanctioning system established pursuant to the SAFE Justice Act. The procedure for the imposition of graduated sanctions shall include the following:

(1) Notice of graduated sanctions.—Upon determining that a technical violation of supervision warrants an alternative to arrest or incarceration, a probation officer, with the concurrence of that officer’s probation supervisor, shall serve on the supervisee a Notice of Graduated Sanctions, which shall include—

(A) a description of the violation of supervision;

(B) an appropriate graduated sanction or sanctions to be imposed, as determined under the graduated sanctioning system;
“(C) an inquiry whether the supervisee wishes to waive the supervisee’s right to a revocation or modification proceeding under the Federal Rules of Criminal Procedure; and

“(D) notice of the supervisee’s right to retain counsel or to request that counsel be appointed if the supervisee cannot afford to retain counsel to consult with legal counsel before agreeing to admit to the alleged violation.

“(2) Counsel shall be appointed for any financially eligible person.

“(3) Effect of supervisee elections after notice.—If the supervisee agrees to waive the right to a revocation or modification hearing, agrees in writing to submit to the graduated sanction or sanctions as set forth in the Notice of Graduated Sanctions, and admits to the alleged violation of supervision, the specified sanction shall immediately be imposed. If the supervisee does not agree to waive the right to the revocation or modification hearing, does not agree to submit to the specified sanction or sanctions, does not admit to the alleged violation, or if the supervisee fails to complete the graduated sanction or sanctions to the satisfaction of the probation officer and that officer’s supervisor,
then the probation officer may commence supervision revocation or modification proceedings.

“(c) DEFINITIONS.—In this section:

“(1) CRIMINOGENIC RISK AND NEEDS FACTORS.—The term ‘criminal risk and needs factors’ means the characteristics and behaviors that are associated with the risk of committing crimes and, that when addressed with evidence-based programming are diminished.

“(2) EVIDENCE-BASED PRACTICES.—The term ‘evidence-based practices’ means policies, procedures, and practices that scientific research demonstrates reduce recidivism.

“(3) GRADUATED SANCTIONS.—The term ‘graduated sanctions’ means an accountability-based, graduated series of sanctions applicable to supervisees to hold such supervisees accountable for their actions by providing appropriate and proportional sanctions for each violation of supervision.

“(4) SANCTIONING GRID.—The term ‘sanctioning grid’ means a list of graduated responses for use in responding to supervisee behavior that violates a condition or conditions of supervision, with responses ranging from less restrictive to more re-
strictive based on the seriousness of the violation
and the number and severity of prior violations.

“(5) NONTECHNICAL VIOLATION.—The term
‘nontechnical violation’ means a new criminal convic-
tion for a crime committed while an offender is on
supervision.

“(6) TECHNICAL VIOLATION.—The term ‘tech-
nical violation’ means conduct by a person on super-
vision that violates a condition or conditions of su-
pervision, including a new arrest for a crime alleged-
ly committed while on supervision or criminal
charges that have been filed but not yet resulted in
a conviction. The term ‘technical violation’ does not
include a conviction for a crime committed while the
person was on supervision.

“(7) PROBATION OFFICER.—The term ‘proba-
tion officer’ means an employee of the United States
Probation and Pretrial Services who is directly re-
ponsible for supervising individual supervisees.

“(8) PROBATION SUPERVISOR.—The term ‘pro-
bation supervisor’ means an employee of the United
States Probation and Pretrial Services who is di-
rectly responsible for overseeing probation officers.
“(9) SUPERVISEE.—The term ‘supervisee’ means an individual who is currently under supervision.

“(10) SUPERVISION.—The term ‘supervision’ means supervision during a term of probation or supervised release.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 229 of title 18, United States Code, is amended by inserting after the item relating to section 3608 the following new item:

“3609. Graduated responses to technical violations of supervision.”.

(c) CONFORMING AMENDMENTS.—

(1) MANDATORY CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(A) by striking “and” at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting “; and”; and

(C) by adding after paragraph (9) the following:

“(10) for a felony or misdemeanor, that the court may modify the term of probation by imposing a graduated sanction if the probationer has waived the right to a hearing under the Federal Rules of Criminal Procedure.”.
(2) **Mandatory Conditions of Supervised Release.**—Section 3583(d) of title 18, United States Code, is amended by inserting after “DNA Analysis Backlog Elimination Act of 2000.” the following: “The court may modify the term of supervised release by imposing a graduated sanction if the defendant has waived the right to a hearing under the Federal Rules of Criminal Procedure.”.

(3) **Duties of Probation Officers.**—Section 3603 of title 18, United States Code, is amended—

(A) in paragraph (2) by striking “to the degree required by the conditions specified by the sentencing court” and inserting “to the degree required by section 3609 and the conditions specified by the sentencing court”; and

(B) in paragraph (3) by striking “use all suitable methods, not inconsistent with the conditions specified by the court” and inserting “use a system of graduated sanctions and incentives designed to deter and respond immediately to violations of supervision conditions, not inconsistent with the conditions specified by the court”.

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(d) EFFECTIVE DATE.—The amendments made by this section take effect 1 year after the date of the enactment of this Act.

SEC. 608. TARGETED AND PROPORTIONAL PENALTIES FOR REVOCATION OF PROBATION.

(a) PENALTIES FOR Nontechnical Violations of Probation.—Subsection (a) of section 3565 of title 18, United States Code, is amended to read as follows:

“(a) CONTINUATION OR REVOCATION FOR Nontechnical Violations of Probation.—If the defendant commits a nontechnical violation prior to the expiration or termination of the term of probation, the court may, after a hearing pursuant to the Federal Rules of Criminal Procedure, and after considering the factors set forth in section 3553(a) to the extent that they are applicable—

“(1) continue the defendant on probation for the remaining duration of the term of probation, with the option to modify or impose additional conditions; or

“(2) revoke the sentence of probation and re-sentence the defendant under subchapter A.”.

(b) PENALTIES FOR Technical Violations of Probation.—Section 3565 of title 18, United States Code, is amended by adding at the end the following:
“(d) CONTINUATION OR REVOCATION FOR TECHNICAL VIOLATIONS OF PROBATION.—If the defendant commits a technical violation prior to the expiration or termination of the term of probation, the court may, after a hearing pursuant to the Federal Rules of Criminal Procedure, and after considering the factors set forth in section 3553(a) to the extent that they are applicable—

“(1) continue the defendant on probation for the remaining duration of the original term of probation, with the option to modify or impose additional conditions; or

“(2) revoke the sentence of probation and impose a period of imprisonment not to exceed 60 days, which can be served in one term of confinement or intermittent confinement (custody for intervals of time) in jail, prison, community confinement, or home detention in order not to disrupt employment or other community obligations.”.

SEC. 609. TARGETED AND PROPORTIONAL PENALTIES FOR VIOLATIONS OF SUPERVISED RELEASE.

(a) PENALTIES FOR NONTECHNICAL VIOLATIONS OF SUPERVISED RELEASE.—Section 3583 of title 18, United States Code, is amended—

(1) in subsection (e), by amending paragraph (3) to read as follows:
“(3) revoke the term of supervised release and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for any or all offenses that resulted in the term of supervised release, without any credit earned toward discharge under section 3610, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of release, except that a defendant whose term is revoked under this paragraph may not be required to serve on any such revocation more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or”;

and

(2) by adding at the end the following:

“(m) CONTINUATION OR REVOCATION FOR NON-TECHNICAL VIOLATIONS OF SUPERVISED RELEASE.—If the defendant commits a nontechnical violation of supervised release prior to the expiration or termination of the term of supervised release, the court may, after a hearing
under the provisions of the Federal Rules of Criminal Procedure, and after considering the factors set forth in section 3553(a)—

“(1) continue the defendant on supervised release for the remaining duration of the original term of supervised release, with the option to modify or impose additional conditions; or

“(2) revoke the term of supervised release and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for any or all the offenses that resulted in the term of supervised release, without any credit earned toward discharge under section 3610.”.

(b) PENALTIES FOR TECHNICAL VIOLATIONS OF SUPERVISED RELEASE.—Section 3583 is amended by inserting after subsection (l) the following:

“(m) CONTINUATION OR REVOCATION FOR TECHNICAL VIOLATIONS OF SUPERVISED RELEASE.—If the defendant commits a technical violation of supervised release prior to the expiration or termination of the term of supervised release, the court may, after opportunity for a hearing under the Federal Rules of Criminal Procedure and after considering the factors set forth in section 3553(a)—

“(1) continue the defendant on supervised release for the remaining duration of the term of pro-
bation, with the option to modify or impose additional conditions; or

“(2) revoke the term of supervised release and impose a period of imprisonment not to exceed 60 days, which can be served in one term of confinement or intermittent confinement (custody for intervals of time) in jail, prison, community commitment, or home detention in order not to disrupt employment or other community obligations.”.

Subtitle E—Focus Supervision

Resources on High-Risk Offenders

SEC. 610. EARNED DISCHARGE CREDITS FOR COMPLIANT SUPERVISEES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 3609 (as added by section 522(a)) the following:

“§ 3610. Incentivizing compliance with supervision conditions

“(a) IN GENERAL.—A probation officer shall have the authority to award positive reinforcements for a defendant who is in compliance with the terms and conditions of supervision. These positive reinforcements may include—

“(1) verbal recognition;

“(2) reduced reporting requirements; and
“(3) credits earned toward discharge which shall be awarded pursuant to subsection (b).

“(b) CREDITS FOR EARNED DISCHARGE.—Supervisees shall be eligible to earn discharge credits for complying with the terms and conditions of supervision. These credits, once earned, shall reduce the period of supervision.

“(1) DETERMINATION OF AWARD.—The probation officer shall award 30 days of earned discharge credits for each calendar month in which the offender is in compliance with the terms and conditions of supervision. If the offender commits a violation of supervision during the month, credits shall not be awarded for that month.

“(2) DISCHARGE FROM SUPERVISION.—Once the combination of time served on supervision and earned discharge credits satisfies the total period of supervision, upon motion of any party or upon the court’s own motion, the court shall terminate the period of supervision. The probation officer shall notify the parties and the court in writing at least 60 days prior to the termination of supervision. The 60-day period shall include the accrual of all earned discharge credits to that point.

“(c) DEFINITIONS.—In this section:
“(1) Probation Officer.—The term ‘probation officer’ means an employee of Probation and Pretrial Services who is directly responsible for supervising individual supervisees.

“(2) Supervisee.—The term ‘supervisee’ has the meaning given that term in section 3609.

“(3) Supervision.—The term ‘supervision’ has the meaning given that term in section 3609.

“(4) Termination of Supervision.—The term ‘termination of supervision’ means discharge from supervision at or prior to the expiration of the sentence imposed by the court.

“(5) Terms and Conditions of Supervision.—The term ‘terms and conditions of supervision’ means those requirements set by the court.

“(6) Violation of Supervision.—The term ‘violation of supervision’ means conduct by a person on supervision that violates a condition of supervision.”.

(b) Clerical Amendment.—The table of sections at the beginning of subchapter A of chapter 229 of title 18, United States Code, is amended by inserting after the item relating to section 3609 (as added by section 522(b)) the following new item:

“3610. Incentivizing compliance with supervision conditions.”.
1  (c) **Effective Date.**—The amendments made by
2  this section take effect 1 year after the date of the enact-
3  ment of this Act.
4
5  **SEC. 611. ELIMINATION OF MANDATORY REVOCATION FOR**
6
7  **MINOR DRUG VIOLATIONS.**
8
9  (a) **Removing Substance-related Violations as**
10  **Grounds for Mandatory Revocation of Supervised**
11  **Release.**—Section 3583(g) of title 18, United States
12  Code, is amended—
13
14    (2) in the flush text following paragraph (4), by
15  striking “require the defendant to serve a term of
16  imprisonment not to exceed the maximum term of
17  imprisonment authorized by subsection (e)(3)” and
18  inserting “require the defendant to serve a term of
19  imprisonment not to exceed 60 days unless otherwise
20  authorized under subsection (l) or (m)”;
21
22    (1) by striking paragraphs (1) and (4);
23
24    (3) by renumbering paragraph (2) as paragraph
25    (1), and paragraph (3) as paragraph (2);
26
27    (4) by inserting “or” at the end of paragraph
28    (2); and
29
30    (5) by striking “or” at the end of paragraph
31    (3).
32
33  (b) **Removing Substance-related Violations as**
34  **Grounds for Mandatory Revocation of Proba-
TION.—Section 3565(b) of title 18, United States Code, is amended—

(1) in the flush text following paragraph (4), by striking “revoke the sentence of probation and re-sentence the defendant under subchapter A to a sentence that includes a term of imprisonment” and inserting “revoke the sentence of probation and require the defendant to serve a term of imprisonment not to exceed 60 days unless otherwise authorized under subsection (a) or (d)”; and

(2) by striking paragraphs (1) and (4);

(3) by renumbering paragraph (2) as paragraph (1), and paragraph (3) as paragraph (2);

(4) by inserting “or” at the end of paragraph (1); and

(5) by striking “or” at the end of paragraph (2).

Subtitle F—Maximizing Public Safety Returns on Corrections Dollars

SEC. 612. CLARIFICATION OR ORIGINAL CONGRESSIONAL INTENT REGARDING CALCULATION OF GOOD TIME CONDUCT CREDIT.

(a) In General.—Section 3624(b) of title 18, United States Code, is amended—
(1) so that paragraph (1) reads as follows:

“(1) Subject to paragraph (2) and in addition to the time actually served by the prisoner and any credit provided to the prisoner under any other provision of law, a prisoner who is serving a term of imprisonment of more than 1 year, other than a term of imprisonment for the duration of the prisoner’s life, shall receive credit computed under this paragraph toward that prisoner’s term of imprisonment. The credit under this paragraph is computed beginning on the date on which the sentence of the prisoner commences, at the rate of 54 days per year of the sentence imposed by the court, if the Director of the Bureau of Prisons determines that the prisoner has displayed exemplary compliance with institutional disciplinary regulations.”; and

(2) by striking paragraphs (3) and (4) and inserting the following:

“(3) This subsection applies to all prisoners serving a term of imprisonment for offenses committed on or after November 1, 1987. With respect to a prisoner serving a term of imprisonment on the date of the enactment of the SAFE Justice Act, this subsection shall apply to the entirety of the sentence
imposed on the prisoner, including time already
served.
“(4) A prisoner may not be awarded credit
under this subsection that would cause the prisoner
to be eligible for release earlier than the time the
prisoner already has served.”.

(b) EFFECTIVE DATE.—The amendments made by
subsection (a) take effect 90 days after the date of the
enactment of this Act.

SEC. 613. ANALYSIS OF FISCAL IMPLICATIONS FOR INCLU-
SION IN PRESENTENCE REPORTS.

(a) FACTORS TO BE CONSIDERED IN IMPOSING A
SENTENCE.—Section 3553(a)(3) of title 18, United States
Code, is amended by striking the semicolon and inserting
“and the average annual fiscal cost of each;”.

(b) PRESENTENCE REPORTS.—Section 3552(a) of
title 18, United States Code, is amended by adding at the
end the following “The appropriate officials of the United
States Probation and Pretrial Services shall provide infor-
mation on the average annual cost of the kinds of sen-
tences available as part of the Presentence Investigation
Report. For the purposes of this subsection the average
annual cost of incarceration is the figure per fiscal year
as published by the Director of the Bureau of Prisons.
The average annual fiscal costs of alternatives to incarcer-
ation for that judicial district shall be compiled by the
United States Probation and Pretrial Services.”.

(c) Directive to the Sentencing Commission.—
Pursuant to its authority under section 994(p) of title 28,
United States Code, and in accordance with this section,
the United States Sentencing Commission shall amend its
guidelines and its policy statements to ensure that the
guidelines and policy statements are consistent with the
amendments made by this section and reflect the intent
of Congress that an analysis of fiscal implications be in-
cluded in presentence reports and considered in the impo-
sition of appropriate sentences.

(d) Directive to the Judicial Conference.—
Pursuant to its authority under section 334 of title 28,
United States Code, and in accordance with this section,
the Judicial Conference of the United States shall propose
an amendment to the Federal Rules of Criminal Procedure
consistent with the amendments made by this section to
reflect the intent of Congress that an analysis of fiscal
implications shall be included in presentence reports and
considered in the imposition of appropriate sentences.

SEC. 614. SUPPORTING SAFE LAW ENFORCEMENT.

(a) Findings.—Congress finds the following:

(1) Most law enforcement officers walk into
risky situations and encounter tragedy on a regular
basis. Some, such as the police who responded to the
carnage of the Sandy Hook Elementary School, wit-
ness horror that stays with them for the rest of their
lives. Others are physically injured in carrying out
their duties, sometimes needlessly, through mistakes
made in high stress situations. The recent notable
deaths of officers are stark reminders of the risk of-
ficers face. As a result, physical, mental, and emo-
tional injuries plague many law enforcement agen-
cies. However, a large proportion of officer injuries
and deaths are not the result of interaction with of-
fenders but the outcome of poor physical health due
to poor nutrition, lack of exercise, sleep deprivation,
and substance abuse. Yet these causes are often
overlooked or given scant attention. Many other in-
juries and fatalities are the result of vehicular acci-
dents. The wellness and safety of law enforcement
officers is critical not only to themselves, their col-
leagues, and their agencies, but also to public safety.

(2) Officer suicide is also a problem. Police died
from suicide 2.4 times as often as from homicides.
And though depression resulting from traumatic ex-
periences is often the cause, routine work and life
stressors—serving hostile communities, working long
shifts, lack of family or departmental support—are frequent motivators too.

(3) According to estimates of the United States Bureau of Labor Statistics, more than 100,000 law enforcement professionals are injured in the line of duty each year. Many are the result of assaults, which underscores the need for body armor, but most are due to vehicular accidents.

(b) AUTHORIZED USES.—Funds obligated, but subsequently unspent and deobligated, may remain available, to the extent provided in appropriations Acts, for use as specified under this section in ensuing fiscal years. The Attorney General shall take all practicable steps to use such funds as soon as practicable to carry out programs that are consistent with the purposes of this Act. Such programs include—

(1) a national “Blue Alert” warning system to enlist the help of the public in finding suspects after a law enforcement officer is killed in the line of duty;

(2) counseling and support services for family members of law enforcement officers who are killed in the line of duty;

(3) national toll-free mental health hotline specifically for law enforcement officers, which is both
anonymous and peer-driven and has the ability and resources to refer the caller to professional help if needed;

(4) continuing research in the efficacy and implementation of an annual fitness, resilience, nutrition, and mental health check, in recognition that many health problems afflicting law enforcement officers, notably cardiac issues, are cumulative;

(5) expanding Federal pension plans and incentivizing State and local pension plans to recognize fitness for duty exams as definitive evidence of valid duty or nonduty related disability in recognition of the fact that officers injured in the line of duty are often caught in limbo, without pay, unable to work but also unable to obtain benefits because “fitness for duty” exams are not recognized as valid proof of disability and because they cannot receive Social Security;

(6) implementing research-based findings into the number of hours an officer should work consecutively and in total within a 24–48 hour period, including special findings on the maximum number of hours an officer should work in a high-risk or high-stress environment (e.g. public demonstrations or emergency situations) by implementing those find-
ings federally and providing incentives for State and local law enforcement to do the same;

(7) providing individual tactical first-aid kits that contain tourniquets, an Olaes modular bandage, and QuickClot gauze, and training in hemorrhage control to every law enforcement officer on the Federal level and providing incentives for State and local enforcement agencies to do so;

(8) providing antiballistic vests and body armor to every law enforcement officer on the Federal level, and providing incentives for State and local law enforcement agencies to do so;

(9) researching and providing training, including protocols for use and consequences of misuse, prior to providing oleoresin capsicum (OC) spray—commonly called pepper spray—to every correctional worker in medium, high, and maximum security Federal prisons as well as Federal Medical Centers, Federal Detention Centers, and jail units operated by the Bureau of Prisons and instituting a training program to educate workers on how to use the spray responsibly and effectively for self-defense purposes only, and providing incentives for State and law enforcement agencies to do so;
(10) requiring the Director of the Bureau of Prisons to ensure that each chief executive officer of a Federal penal or correctional institution provides a secure storage area located outside the secure perimeter of the institution for employees to store firearms, or allowing employees to store firearms in a vehicle lockbox approved by the Director of the Bureau of Prisons;

(11) researching and/or developing the design specifications or modifications for body-worn cameras with the input of Federal, State, and local law enforcement leaders and providing the devices or funding to purchase the device and funding for related costs to implementation and storage costs to every Federal law enforcement and correctional agency and State and local officer, in recognition of the fact that these devices reduce unwarranted complaints against officers while also vindicating civilians who have been mistreated;

(12) researching, developing, and providing best practices for Federal, State, and local law enforcement on the acquisition, use, retention, and dissemination of auditory, visual, and biometric data from law enforcement in a constitutional manner and in light of privacy concerns, in consultation with the
Bureau of Justice Assistance, civil rights and civil liberties organizations, as well as law enforcement research groups and other experts;

(13) hiring of social workers by the Bureau of Prisons and providing incentives for State and local governments to do so because social workers are uniquely qualified to address the release preparation needs of aging inmates, such as aftercare planning and ensuring continuity of medical care;

(14) providing funding and training federally and to State and local law enforcement agencies on community-based policing principles to repair and rebuild trust and collaborative relationships;

(15) providing funding to Federal, State, and local law enforcement agencies to eliminate the DNA backlog, in recognition that repeat, violent offenders, in particular sex offenders, would be identified and prevented from committing additional crimes;

(16) implementing requested and recommended mental health treatments to Federal law enforcement and correctional officers and providing incentives to State and local law enforcement and corrections agencies to do the same;

(17) providing incentives and support services to State and local law enforcement agencies to en-
hance the reporting to and usage of the National Incident-Based Reporting System, which collects data on each single incident and arrest within 22 offense categories made up of 46 specific crimes that are the major ones facing law enforcement today, including terrorism, white collar crime, weapons offenses, missing children in which criminality is involved, drug offenses, hate crimes, spousal/child/elder abuse, gang crimes, organized crime, sexual exploitation, DUI and alcohol-related offenses;

(18) providing medication-assisted treatment for individuals struggling with heroin, opioid, or alcohol abuse in residential substance abuse treatment programs and providing funding to State and local governments to do so;

(19) providing funding to State and local governments and law enforcement agencies to implement the Attorney General’s best practices on information and resource parity and innocence protection, including sharing the toolkits referenced in section 305 of this Act to reduce the likelihood of wrongful convictions, “open file” discovery practices, evidence preservation, training on interrogation to avoid coercive tactics that lead to false or unreliable confessions, training on interviewing witnesses to
avoid suggestive tactics that lead to false or unreliable identifications, and training on the cross-racial misidentification probability;

(20) investing in research and training in non-lethal tools of policing that provide a greater range of law enforcement response, including to de-escalate situations and reduce deadly uses of force;

(21) investing in research and training in implicit bias for local, State, and Federal law enforcement personnel and developing comprehensive strategies to recognize and reduce incidences of implicit bias;

(22) investing in evidence-based programs to assist communities in developing comprehensive responses to youth violence through coordinated prevention and intervention initiatives;

(23) hiring social workers, psychologists, psychiatrists, therapists, and counselors for Federal prisons and providing funding to State and local governments to do the same as they are uniquely qualified to address the release preparation needs of inmates;

(24) providing funding to State and local law enforcement agencies to provide incentives for officers with undergraduate and graduate degrees;
(25) providing additional funding to Federal, State, and local government agencies to provide competent and effective counsel for persons financially unable to obtain legal representation;

(26) providing additional funding for the grant program established by the Second Chance Act (Public Law 110–199) to prevent recidivism and improve public safety;

(27) providing funding for Federal, State, and local law enforcement leaders to attend the FBI National Academy to share best practices and support national coherence on important policing issues in this ever-changing field;

(28) crime-reducing education grants, Federal pretrial diversion programs, Federal problem-solving courts, the elimination of mandatory minimums in the Federal law, and the Innocence Protection Act of 2004; and

(29) providing funding for a competitive 5-year grant to a nationally recognized, nonpartisan, scientifically sound, research organization, with an advisory board comprised of local, State, and Federal law enforcement leaders, and subject matter experts, to create a national nonpunitive, forward-focused peer review, training, and improvement center with
the goal of improved safety outcomes for officers and

(A) establish a “critical incident review”
mechanism, similar to those used in medicine
and aviation, as a comprehensive, protective,
and accurate way of examining the cir-
cumstances surrounding an incident to accu-
rately identify problems on a systemic level to
reduce the number and types of problems, to
improve policing outcomes, refine policies and
practices, and build upon meaningful conversa-
tions and research to develop what improve-
ments with cooperation of the law enforcement
agencies involved;

(B) establish a data input form and infra-
structure of a “near miss” database and for
every policing incident in which an officer or ci-
vilian life is lost or substantial force is used to
review knowledge gained from past tragedies in
order to disseminate it to prevent future ones
and to encourage new learning and sustainable,
stakeholder-driven change;

(C) study, recommend, and establish an
“officer-involved shooting database” for use
when firearms have been used against law en-
forcement officers and where officers have used firearms against civilians to review knowledge gained from past tragedies to distinguish between actual risk versus perceived risk on the part of the civilian or officer and to develop best practices;

(D) advance training, technical assistance and knowledge regarding mental health issues that occur within the criminal justice system, including providing training and funding for de-escalation techniques, coordination among government agencies, information-sharing, diversion initiatives, jail and prison strategies, establishment of learning sites, suicide prevention, and assistance and infrastructure for calls for service and law enforcement triage capabilities;

(E) study, invest in, and apply policing research tools that develop forecasts based upon evolving technology, social movements, environmental changes, economic factors, and political events; and

(F) educate and facilitate the advance of evidence-based policing to encourage use of the best available scientific evidence to control
crime and disorder and enhance officer safety
and wellness.

(c) Funds to Supplement, Not Supplant, Existing Funds.—Funds disbursed pursuant to this section
shall not be used to supplant existing State or local funds
utilized for these purposes, but rather to supplement them.

(d) Accounting.—Every year, the Department of
Justice shall provide an accounting of the reprogrammed
funds to ensure that the funds are disbursed and expended
in a manner to maximize public safety and make needed
improvements to the criminal justice system. The Attorney
General shall report the findings to the Judiciary, Over-
sight, and substantive congressional committees.

TITLE VII—INCREASING GOVERNMENT TRANSPARENCY
AND ACCURACY

SEC. 701. REPORT ON MANDATORY MINIMUMS.

Not later than one year after the date of the enact-
ment of this Act, the Government Accountability Office
(GAO), in coordination with the Attorney General, shall
provide a report to Congress listing all existing mandatory
minimum penalties in force, including brief summaries of
the conduct prohibited by each and how frequently the
mandatory minimum is imposed.
SEC. 702. FEDERAL DEFENDER ADDED AS A NONVOTING MEMBER OF THE SENTENCING COMMISSION.

(a) In General.—Subsection (a) of section 991 of title 28, United States Code, is amended—

(1) by striking “one nonvoting member.” at the end of the first sentence and inserting “two nonvoting members.”; and

(2) by inserting before the last sentence the following: “A Federal public or community defender designated by the Judicial Conference of the United States with the advice of the Defender Services Advisory Group shall be a nonvoting member of the Commission.”.

(b) Conforming Amendment.—The final sentence of section 235(b)(5) of the Comprehensive Crime Control Act of 1984 (18 U.S.C. 3551 note) is amended by striking “nine members, including two ex officio, nonvoting members” and inserting “ten members, including three nonvoting members”.

SEC. 703. BUDGET AND INMATE POPULATION IMPACT OF LEGISLATION ON THE FEDERAL CORRECTIONS SYSTEM.

(a) Impact Analysis.—

(1) When Required.—Upon request by the chair or ranking member of the Committee on the Judiciary of either the Senate or the House of Rep-
resentatives with respect to legislation referred to
that committee that amends sentencing or corrections policy or creates a new criminal penalty, the
Attorney General shall, before the final committee
vote on ordering the legislation reported, provide the
requesting party an impact analysis.

(2) CONTENTS.—The impact analysis shall con-
tain—

(A) an estimate of the Federal budgetary
impact of the legislation, both overall and bro-
ken down by each agency affected in the execu-
tive and judicial branches; and

(B) an estimate of the legislation’s 10-year
prison bed impact on Federal facilities.

(b) AMENDMENTS.—Upon request by the chair or
ranking member of the Committee on the Judiciary of the
Senate or House of Representatives with respect to any
legislation ordered reported favorably by that committee
with amendment, the Attorney General shall, not later
than 30 days after the request is made, provide the re-
questing party with an updated impact analysis.

(c) INCLUSION OF IMPACT ANALYSIS OR STATE-
MENT.—The chair or ranking member shall include in the
committee report, or in additional, separate, or dissenting
views appended to the report, as the case may be, any
impact analysis provided at the request of that chair or ranking member. If the Attorney General does not provide an impact analysis in a timely manner, the chair or ranking member shall instead include in the committee report or views, a statement that the impact analysis was not provided.

(d) Effect of Failure to Comply With Requirements of Section.—The Attorney General shall make every effort to provide an impact analysis required under this section, and the requesting party shall make every effort to give the Attorney General sufficient notice to do so. However, failure to provide the impact analysis does not give rise to any point of order regarding the legislation. Failure by a chair or ranking member to include matter as required by this section in a report or views appended to the report does not give rise to a point of order regarding the legislation.

SEC. 704. REPORTS.

(a) Annual Reports by the Attorney General.—Not later than 180 days after passage of this bill, and every year thereafter, the Attorney General shall submit to the Congress, a report that contains the following:

(1) Analysis of demographic (age, race/ethnicity, gender) data on Federal offenders, including by offender demographics, the number and types of
offenses for which offenders in that demographic have—

(A) been considered for prosecution by the Department of Justice but not charged;

(B) been charged but charges were dismissed;

(C) been initially charged with mandatory minimums that were not withdrawn or dismissed, listed by statutory citation of mandatory minimum;

(D) been charged in a superseding indictment or subsequent information with mandatory minimums;

(E) plea bargained in exchange for prosecutors not charging mandatory minimums, including the type of mandatory minimum plea bargained away;

(F) been initially charged with mandatory minimums but were withdrawn or dismissed, listed by type of mandatory minimum; and

(G) been convicted, the length of sentence they received, and the judicial district in which they were sentenced to track whether unwarranted sentencing disparities are occurring in certain districts.
(2) An analysis of current and projected savings associated with this Act and the amendments made by this Act.

(3) Developments in training and development and research on the Department of Justice in conjunction with the Department of Defense, on non-lethal tools of policing.

(b) Annual Reports by the Director of the Bureau of Prisons.—Not later than 180 days after passage of this bill, and every January 1 thereafter, the Director of the Bureau of Prisons, in consultation with the Inspector General of the Department of Justice, shall submit to Congress a report that contains the following information, categorized by race, national origin, gender, age, and religion:

(1) Prison Data.—

(A) The number of offenders entering prison on a new offense.

(B) The average sentence length for a new prison sentences by offense type.

(C) The number of offenders entering prison on a revocation of supervision.

(D) The average sentence length for offenders entering prison for a probation revocation.
(E) The average sentence length for offenders entering prison for a supervised release revocation.

(F) The average percentage of the sentence imposed served in prison as compared to community, home, or residential reentry center.

(G) The average percentage of prison sentence served in prison by offense type for offenders entering on a new offense.

(H) The number of offenders in solitary confinement, including their race, gender, age, reason for solitary confinement, length of stay in solitary confinement, the number of total stays in solitary confinement, the total time of stay in solitary confinement, and the number of those offenders with mental health issues, cognitive deficits, substance abuse issues, or combat-related post-traumatic stress disorder.

(I) Total prison population by offense type and by the type of admission into prison.

(J) Recidivism rate by offense type.

(K) Offense rate after 3 years of release.

(2) Data related to expanded earned time credit and recidivism reduction programming.
(A) The number and percentage of offenders who have earned time credit in the prior year.

(B) The average amount of time credit earned per offender in the prior year.

(C) The average amount of time credit earned by offenders released from prison in the prior year.

(D) Additional information as requested by the Judiciary, Oversight, and other substantive committees.

(E) A summary and assessment of the types and effectiveness of the recidivism reduction programs and productive activities in facilities operated by the Director of the Bureau of Prisons, including—

   (i) evidence about which programs and activities have been shown to reduce recidivism;

   (ii) the capacity of each program and activity at each facility, including the number of prisoners enrolled in each program and activity; and

   (iii) identification of any problems or shortages in capacity of such programs
and activities, and how they should be remedied.

(3) **DATA RELATED TO RELEASE TO EXTENDED SUPERVISION FOR CERTAIN MEDICALLY INCAPACITATED AND GERIATRIC PRISONERS.**—

(A) The number of offenders who petitioned for release to extended supervision pursuant to section 3582(c)(1)(A) of title 18, United States Code.

(B) The number of offenders who petitioned and were denied release to extended supervision pursuant to section 3582(c)(1)(A) of title 18, United States Code, and the common reasons for denial.

(C) The number of offenders released to extended supervision pursuant to section 3582(c)(1)(A) of title 18, United States Code, who were revoked in the previous year.

(c) **ANNUAL REPORTS BY THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.**—Not later than 180 days after passage of this bill, and every January 1 thereafter, the Director of the Administrative Office of the United States Courts, in consultation with the Judicial Conference, shall submit to the
appropriate committees of Congress, and publish publicly, a report that contains the following:

(1) Probation data.—

(A) The number of offenders sentenced to probation in the previous year.

(B) The number of offenders supervised on probation.

(C) The number of probationers revoked for a technical violation.

(D) The number of probationers who were convicted of a new felony offense and sentenced to a term of imprisonment, in either a local, State, or Federal facility.

(2) Supervised release data.—

(A) The number of offenders placed on postrelease supervision in the following year.

(B) The number of offenders supervised on postrelease supervision.

(C) The number of offenders on supervised release revoked for a technical violation.

(D) The number of offenders on supervised released who were convicted of a new felony offense and sentenced to a term of imprisonment, in either a local, State, or Federal facility.
(3) Data related to the imposition of the graduated sanctioning system.—

(A) The number and percentage of offenders who have one or more violations during the year.

(B) The average number of violations per offender during the year.

(4) Data related to the imposition of earned time credits.—

(A) The number and percentage of offenders who qualify for earned discharge in one or more months of the year.

(B) The average amount of credits earned per offender within the year.

(C) The average probation sentence length for offenders sentenced to Federal probation.

(D) The average supervision sentence length for offenders released to supervised release.

(E) The average time spent on Federal probation for offenders successfully completing probation.

(F) The average time spent on supervised release for offenders successfully completing supervised release.
(5) DATA RELATED TO PROBLEM-SOLVING COURTS.—

(A) Total number of participants.

(B) Total number of successful participants.

(C) Total number of unsuccessful participants.

(D) Total number of participants who were arrested for a new criminal offense while in the problem-solving court program.

(E) Total number of participants who were convicted of a new felony or misdemeanor offense while in the problem-solving court program.

(F) Any other data or information as required by the Judiciary, Oversight, and other substantive committees.

(d) DEFINITIONS.—In this title, the following definitions apply:

(1) RECIDIVISM.—The term “recidivism” means the return to Federal prison of an offender not later than 3 years after the date of release.

(2) SUPERVISION.—The term “supervision” has the meaning given that term in section 3609 of title 18, United States Code.
(3) OFFENSE RATE.—The term “offense rate” means either misdemeanor or felony convictions more than 3 years after the date of release.