

115TH CONGRESS  
1ST SESSION

# H. R. 3227

To improve Federal sentencing and corrections practices, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2017

Mr. GRIJALVA (for himself, Ms. BASS, Mr. ELLISON, Mr. RUSH, Mr. SERRANO, Ms. CLARK of Massachusetts, Mrs. NAPOLITANO, Ms. SCHAKOWSKY, Mr. MCGOVERN, Mr. POLIS, and Ms. LEE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Financial Services, Energy and Commerce, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To improve Federal sentencing and corrections practices, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice is Not For  
5 Sale Act of 2017”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

1           (1) the term “core correctional services” means  
2           the housing, transporting, safeguarding, protecting,  
3           and disciplining of individuals—

4                   (A) charged with or convicted of an of-  
5                   fense; or

6                   (B) who are in custody for purposes of en-  
7                   forcing the immigration laws, as defined in sec-  
8                   tion 101(a) of the Immigration and Nationality  
9                   Act (8 U.S.C. 1101(a));

10           (2) the term “local government” means a city,  
11           county, township, town, borough, parish, village, or  
12           other general purpose political subdivision of a  
13           State; and

14           (3) the term “State” means a State of the  
15           United States, the District of Columbia, the Com-  
16           monwealth of Puerto Rico, or another common-  
17           wealth, territory, or possession of the United States.

18 **SEC. 3. ELIMINATION OF FEDERAL CONTRACTS FOR PRI-**

19 **VATELY RUN PRISONS WITHIN 3 YEARS.**

20           (a) DEFINITION.—In this section, the term “facility  
21           housing adult prisoners or detainees in the custody of the  
22           Federal Government” does not include a community cor-  
23           rectional facility or the residence of an individual on home  
24           confinement, as described in section 3624(e) of title 18,  
25           United States Code.

1 (b) OPERATIONAL CONTROL.—Except as provided in  
2 subsection (c), not later than 2 years after the date of  
3 enactment of this Act—

4 (1) each facility housing adult prisoners or de-  
5 tainees in the custody of the Federal Government  
6 shall be under the direct, operational control of the  
7 Federal Government; and

8 (2) core correctional services at each such facil-  
9 ity shall be performed by employees of the Federal  
10 Government.

11 (c) WAIVER AUTHORIZED.—If the Attorney General  
12 determines that the Federal Government is unable to com-  
13 ply with subsection (b) by the date that is 2 years after  
14 the date of enactment of this Act, the Attorney General  
15 may waive the application of subsection (b) for not more  
16 than 1 year.

17 **SEC. 4. PROHIBITION ON PRIVATE ENTITIES RUNNING**  
18 **PRISONS HOUSING STATE AND LOCAL PRIS-**  
19 **ONERS AFTER 3 YEARS.**

20 (a) DEFINITION.—In this section, the term “facility  
21 housing adult prisoners or detainees in the custody of a  
22 State or local government” does not include a community  
23 treatment center, halfway house, restitution center, men-  
24 tal health facility, alcohol or drug rehabilitation center, or

1 other community facility that is not within the confines  
2 of a jail or prison.

3 (b) OPERATIONAL CONTROL.—Except as provided in  
4 subsection (c), on and after the date that is 2 years after  
5 the date of enactment of this Act—

6 (1) no private entity engaged in or affecting  
7 interstate commerce shall own or have direct, oper-  
8 ational control over a facility housing adult prisoners  
9 or detainees in the custody of the State or local gov-  
10 ernment; and

11 (2) no private entity engaged in or affecting  
12 interstate commerce shall perform core correctional  
13 services at such a facility.

14 (c) WAIVER AUTHORIZED.—If the Attorney General  
15 determines that a State or local government requires serv-  
16 ices from a private entity that are described in subsection  
17 (b) after the date that is 2 years after the date of enact-  
18 ment of this Act, the Attorney General may waive the ap-  
19 plication of subsection (b) as to that private entity for not  
20 more than 1 year.

21 (d) ENFORCEMENT.—The Attorney General may  
22 bring a civil action in an appropriate district court of the  
23 United States for such declaratory or injunctive relief as  
24 is necessary to carry out this section.

1 **SEC. 5. REINSTATEMENT OF PAROLE.**

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

“SUBCHAPTER D—PAROLE

“Sec.

“3631. Definitions.

“3632. Powers and duties of the Commission.

“3633. Powers and duties of the Chairperson.

“3634. Time of eligibility for release on parole.

“3635. Parole determination criteria.

“3636. Information considered.

“3637. Parole determination proceeding; time.

“3638. Conditions of parole.

“3639. Jurisdiction of Commission.

“3640. Early termination of parole.

“3641. Aliens.

“3642. Summons to appear or warrant for retaking of parolee.

“3643. Revocation of parole.

“3644. Reconsideration and appeal.

“3645. Young adult offenders.

“3646. Applicability of Administrative Procedure Act.

5 **“Subchapter D—Parole**

6 **“§ 3631. Definitions**

7 “In this subchapter—

8 “(1) the term ‘Chairperson’ means the Chair-  
 9 person of the Commission;

10 “(2) the term ‘Commission’ means the United  
 11 States Parole Commission;

12 “(3) the term ‘Commissioner’ means any mem-  
 13 ber of the Commission;

14 “(4) the term ‘Director’ means the Director of  
 15 the Bureau of Prisons;

16 “(5) the term ‘eligible prisoner’ means any Fed-  
 17 eral prisoner who is eligible for parole under this

1 title or any other law, including any Federal pris-  
2 oner whose parole has been revoked and who is not  
3 otherwise ineligible for parole;

4 “(6) the term ‘parolee’ means any eligible pris-  
5 oner who has been released on parole or deemed as  
6 if released on parole under section 3626(b)(5) or  
7 section 3634(a)(2); and

8 “(7) the term ‘rules and regulations’ means  
9 rules and regulations promulgated by the Commis-  
10 sion under section 3632 and section 553 of title 5.

11 **“§ 3632. Powers and duties of the Commission**

12 “(a) IN GENERAL.—The Commission shall meet at  
13 least quarterly, and by majority vote shall—

14 “(1) promulgate rules and regulations estab-  
15 lishing guidelines for the powers enumerated in sub-  
16 section (b) and such other rules and regulations as  
17 are necessary to carry out a national parole policy  
18 and the purposes of this subchapter;

19 “(2) create such regions as are necessary to  
20 carry out this subchapter, but in no event less than  
21 5; and

22 “(3) ratify, revise, or deny any request for reg-  
23 ular, supplemental, or deficiency appropriations, be-  
24 fore the submission of the requests to the Office of  
25 Management and Budget by the Chairperson, which

1 requests shall be separate from those of any other  
2 agency in the Department of Justice.

3 “(b) POWERS RELATING TO PAROLE.—The Commis-  
4 sion, by majority vote, and in accordance with the proce-  
5 dures set out in this subchapter, shall have the power to—

6 “(1) grant or deny an application or rec-  
7 ommendation to parole any eligible prisoner;

8 “(2) impose reasonable conditions on an order  
9 granting parole;

10 “(3) modify or revoke an order paroling any eli-  
11 gible prisoner; and

12 “(4) request probation officers and other indi-  
13 viduals, organizations, and public or private agencies  
14 to perform such duties with respect to any parolee  
15 as the Commission determines necessary—

16 “(A) for maintaining proper supervision of  
17 and assistance to such parolees; and

18 “(B) so as to assure that no probation offi-  
19 cers, individuals, organizations, or agencies  
20 shall bear excessive caseloads.

21 “(c) DELEGATION.—The Commission, by majority  
22 vote, and in accordance with rules and regulations—

23 “(1) may delegate to one or more Commis-  
24 sioners powers enumerated in subsection (b);

1           “(2) may delegate to hearing examiners any  
2 powers necessary to conduct hearings and pro-  
3 ceedings, take sworn testimony, obtain and make a  
4 record of pertinent information, make findings of  
5 probable cause and issue subpoenas for witnesses or  
6 evidence in parole revocation proceedings, and rec-  
7 ommend disposition of any matters enumerated in  
8 subsection (b), except that any such findings or rec-  
9 ommendations shall be based upon the concurrence  
10 of not less than 2 hearing examiners;

11           “(3) may delegate authority to conduct hear-  
12 ings held under section 3643 to any officer or em-  
13 ployee of the executive or judicial branch of Federal  
14 or State government;

15           “(4) may review, or may delegate to the Na-  
16 tional Appeals Board the power to review, any deci-  
17 sion made under paragraph (1), which shall be re-  
18 affirmed, modified, or reversed not later than 30  
19 days after the date the decision is rendered; and

20           “(5) shall provide written notice to the indi-  
21 vidual to whom a decision described in paragraph  
22 (4) applies of the Commission’s actions with respect  
23 thereto and the reasons for such actions.

24           “(d) POLICYMAKING.—Except as otherwise provided  
25 by law, any action taken by the Commission under sub-



1 section (a) shall be taken by a majority vote of all individ-  
2 uals currently holding office as members of the Commis-  
3 sion which shall maintain and make available for public  
4 inspection a record of the final vote of each member on  
5 statements of policy and interpretations adopted by it. In  
6 so acting, each Commissioner shall have equal responsi-  
7 bility and authority, shall have full access to all informa-  
8 tion relating to the performance of such duties and respon-  
9 sibilities, and shall have 1 vote.

10 **“§ 3633. Powers and duties of the Chairperson**

11 “(a) IN GENERAL.—The Chairperson shall—

12 “(1) convene and preside at meetings of the  
13 Commission under section 3632 and such additional  
14 meetings of the Commission as the Chairperson may  
15 call or as may be requested in writing by at least 3  
16 Commissioners;

17 “(2) appoint, fix the compensation of, assign,  
18 and supervise all personnel employed by the Com-  
19 mission except that—

20 “(A) the appointment of any hearing ex-  
21 aminer shall be subject to approval of the Com-  
22 mission within the first year of such hearing ex-  
23 aminer’s employment; and

24 “(B) regional Commissioners shall appoint  
25 and supervise such personnel employed regu-

1           larly and full time in their respective regions as  
2           are compensated at a rate up to and including  
3           level GS–9 of the General Schedule;

4           “(3) assign duties among officers and employ-  
5           ees of the Commission, including Commissioners, so  
6           as to balance the workload and provide for orderly  
7           administration;

8           “(4) direct the preparation of requests for ap-  
9           propriations for the Commission, and the use of  
10          funds made available to the Commission;

11          “(5) designate 3 Commissioners to serve on the  
12          National Appeals Board, 1 whom shall be designated  
13          to serve as Vice Chairperson of the Commission  
14          (who shall act as Chairperson of the Commission in  
15          the absence or disability of the Chairperson or in the  
16          event of a vacancy in the position of Chairperson);

17          “(6) designate, for each region established  
18          under section 3632(a)(2), 1 Commissioner to serve  
19          as regional Commissioner in each such region, ex-  
20          cept that—

21                 “(A) in each such designation the Chair-  
22                 person shall consider years of service, personal  
23                 preference, and fitness; and

24                 “(B) no such designation shall take effect  
25                 unless concurred in by the President;

1           “(7) serve as spokesperson for the Commission  
2 and report annually to each House of Congress on  
3 the activities of the Commission; and

4           “(8) exercise such other powers and duties and  
5 perform such other functions as may be necessary to  
6 carry out the purposes of this subchapter or as may  
7 be provided under any other provision of law.

8           “(b) OTHER AUTHORITIES.—The Chairperson shall  
9 have the power to—

10           “(1) without regard to subsections (a) and (b)  
11 of section 3324 of title 31, enter into and perform  
12 such contracts, leases, cooperative agreements, and  
13 other transactions as may be necessary in the con-  
14 duct of the functions of the Commission with any  
15 public agency or with any person, firm, association,  
16 corporation, educational institution, or nonprofit or-  
17 ganization;

18           “(2) accept voluntary and uncompensated serv-  
19 ices, notwithstanding section 1342 of title 31;

20           “(3) procure for the Commission temporary and  
21 intermittent services to the same extent as is author-  
22 ized by section 3109(b) of title 5;

23           “(4) collect systematically the data obtained  
24 from studies, research, and the empirical experience

1 of public and private agencies concerning the parole  
2 process;

3 “(5) carry out programs of research concerning  
4 the parole process to develop classification systems  
5 which describe types of offenders, and to develop  
6 theories and practices which can be applied to the  
7 different types of offenders;

8 “(6) publish data concerning the parole process;

9 “(7) devise and conduct, in various geographical  
10 locations, seminars, workshops, and training pro-  
11 grams providing continuing studies and instruction  
12 for personnel of Federal, State, and local agencies  
13 and private and public organizations working with  
14 parolees and connected with the parole process; and

15 “(8) use the services, equipment, personnel, in-  
16 formation, facilities, and instrumentalities with or  
17 without reimbursement therefor of other Federal,  
18 State, local, and private agencies with their consent.

19 “(c) CONSISTENCY WITH NATIONAL PAROLE POLI-  
20 CIES.—In carrying out the functions under this section,  
21 the Chairperson shall be governed by the national parole  
22 policies promulgated by the Commission.

23 **“§ 3634. Time of eligibility for release on parole**

24 “(a) ELIGIBILITY.—

1           “(1) IN GENERAL.—Except to the extent other-  
2 wise provided by law—

3           “(A) a prisoner confined and serving a  
4 definite term or terms of imprisonment of more  
5 than 1 year shall be eligible for release on pa-  
6 role after serving 33.3 percent of such term or  
7 terms; and

8           “(B) a prisoner confined and serving a life  
9 sentence shall be eligible for release on parole  
10 after serving 10 years.

11           “(2) TERMS OF LESS THAN 1 YEAR.—Any pris-  
12 oner sentenced to imprisonment for a term or terms  
13 of not less than 6 months, and not more than 1  
14 year, shall be released at the expiration of such sen-  
15 tence, unless the court which imposed sentence shall,  
16 at the time of sentencing, provide for the prisoner’s  
17 release after service of 33.3 percent of such term or  
18 terms, which shall be deemed to be as if released on  
19 parole. This paragraph shall not prevent delivery of  
20 any person released on parole to the authorities of  
21 any State otherwise entitled to custody of the per-  
22 son.

23           “(b) DETERMINATIONS BY COURT.—Upon entering  
24 a judgment of conviction, the court having jurisdiction to  
25 impose sentence, when in its opinion the ends of justice

1 and best interest of the public require that the defendant  
2 be sentenced to imprisonment for a term exceeding 1 year,  
3 may—

4 “(1) designate in the sentence of imprisonment  
5 imposed a minimum term at the expiration of which  
6 the defendant shall become eligible for parole, which  
7 term may not be more than 33.3 percent of the max-  
8 imum sentence imposed by the court; or

9 “(2) fix the maximum sentence of imprisonment  
10 to be served by the defendant, in which event the  
11 court may specify that the defendant may be re-  
12 leased on parole at such time as the Commission  
13 may determine.

14 “(c) ADDITIONAL INFORMATION.—

15 “(1) IN GENERAL.—If the court desires more  
16 detailed information as a basis for determining the  
17 sentence to be imposed, the court may commit the  
18 defendant to the custody of the Attorney General,  
19 which commitment shall be deemed to be for the  
20 maximum sentence of imprisonment prescribed by  
21 law, for a study as described in subsection (d).

22 “(2) REPORT AND RECOMMENDATIONS OF DI-  
23 RECTOR.—Not later than 3 months after a defend-  
24 ant is committed under paragraph (1), unless the  
25 court grants additional time, not to exceed 3

1 months, for further study, the results of the study  
2 described in subsection (d), together with any rec-  
3 ommendations which the Director believes would be  
4 helpful in determining the disposition of the case,  
5 shall be furnished to the court.

6 “(3) SENTENCING AFTER ADDITIONAL INFOR-  
7 MATION.—After receiving a report and recommenda-  
8 tions under paragraph (2), the court may in its dis-  
9 cretion—

10 “(A) place the offender on probation in ac-  
11 cordance with subchapter A; or

12 “(B)(i)(I) affirm the sentence of imprison-  
13 ment originally deemed to be imposed; or

14 “(II) reduce the sentence of imprisonment;  
15 and

16 “(ii) commit the offender under any appli-  
17 cable provision of law.

18 “(4) RUNNING OF TERM.—The term of a sen-  
19 tence imposed under paragraph (3) shall run from  
20 the date of original commitment under this sub-  
21 section.

22 “(d) STUDY UPON COMMITMENT.—

23 “(1) IN GENERAL.—Upon commitment of a  
24 prisoner sentenced to imprisonment under sub-  
25 section (a) or (b), the Director, under such regula-

1 tions as the Attorney General may prescribe, shall  
2 cause a complete study to be made of the prisoner  
3 and shall furnish to the Commission a summary re-  
4 port together with any recommendations which in  
5 the opinion of the Director would be helpful in deter-  
6 mining the suitability of the prisoner for parole.

7 “(2) CONTENTS.—A report under paragraph  
8 (1) may include—

9 “(A) data regarding the prisoner’s previous  
10 delinquency or criminal experience;

11 “(B) pertinent circumstances of the social  
12 background, capabilities, and mental and phys-  
13 ical health of the prisoner; and

14 “(C) consideration of such other factors as  
15 may be considered pertinent.

16 “(3) STUDY BY COMMISSION.—The Commission  
17 may make such other investigation relating to a  
18 prisoner as it may determine necessary.

19 “(e) PROVISION OF INFORMATION.—Upon request of  
20 the Commission, it shall be the duty of the various proba-  
21 tion officers and agencies of the Federal Government to  
22 furnish the Commission—

23 “(1) information available to such officer or  
24 agency concerning any eligible prisoner or parolee;  
25 and



1           “(2) whenever not incompatible with the public  
2 interest, their views and recommendation with re-  
3 spect to any matter within the jurisdiction of the  
4 Commission.

5           “(f) REDUCTION OF MINIMUM TERM.—At any time,  
6 upon motion of the Director, the court may reduce any  
7 minimum term before a prisoner may be released on pa-  
8 role to the time the prisoner has served. The court shall  
9 have jurisdiction to act upon the application at any time  
10 and no hearing shall be required.

11           “(g) RULE OF CONSTRUCTION.—Nothing in this sub-  
12 chapter shall be construed to provide that any prisoner  
13 shall be eligible for release on parole if such prisoner is  
14 ineligible for such release under any other provision of law.

15 **“§ 3635. Parole determination criteria**

16           “(a) IN GENERAL.—Subject to subsections (b) and  
17 (c), and in accordance with guidelines promulgated by the  
18 Commission under section 3632, an eligible prisoner shall  
19 be released on parole if—

20           “(1) the eligible prisoner has substantially ob-  
21 served the rules of the institution or institutions to  
22 which the eligible prisoner has been confined; and

23           “(2) the Commission, upon consideration of the  
24 nature and circumstances of the offense and the his-

1 tory and characteristics of the eligible prisoner, de-  
2 termines that release would not—

3 “(A) depreciate the seriousness of the of-  
4 fense or promote disrespect for the law; or

5 “(B) jeopardize the public welfare.

6 “(b) EXCEPTION.—Notwithstanding the guidelines  
7 promulgated by the Commission under section 3632, the  
8 Commission may grant or deny release on parole if it de-  
9 termines there is good cause for so doing.

10 “(c) NOTICE.—The Commission shall furnish an eli-  
11 gible prisoner with a written notice of its determination  
12 (including any determination described in subsection (b))  
13 not later than 21 days, excluding holidays, after the date  
14 of the parole determination proceeding. If parole is denied,  
15 such notice shall state with particularity the reasons for  
16 such denial.

17 “(d) CERTAIN PRISONERS.—

18 “(1) IN GENERAL.—Subject to paragraph (2),  
19 any prisoner serving a term or terms of imprison-  
20 ment of 5 years or longer, who is not earlier released  
21 under this section or any other applicable provision  
22 of law, shall be released on parole—

23 “(A) on the date on which the prisoner has  
24 served 66.6 percent of each consecutive term or  
25 terms; or

1           “(B) for a prisoner serving consecutive  
2 term or terms of imprisonment of more than 45  
3 years (including any life term), the earlier of—

4                   “(i) the date described in subpara-  
5 graph (A); or

6                   “(ii) the date on which the prisoner  
7 has served 30 years.

8           “(2) EXCEPTION.—The Commission shall not  
9 release a prisoner under paragraph (1) if it deter-  
10 mines that—

11                   “(A) the prisoner has seriously or fre-  
12 quently violated institution rules and regula-  
13 tions; or

14                   “(B) there is a reasonable probability that  
15 the prisoner will commit any Federal, State, or  
16 local crime.

17 **“§ 3636. Information considered**

18           “‘In making a determination under this subchapter  
19 relating to release on parole of an eligible prisoner, the  
20 Commission shall consider, if available and relevant—

21                   “(1) reports and recommendations which the  
22 staff of the facility in which such eligible prisoner is  
23 confined may make;

1           “(2) official reports of the eligible prisoner’s  
2 prior criminal record, including a report or record of  
3 earlier probation and parole experiences;

4           “(3) presentence investigation reports;

5           “(4) recommendations regarding the eligible  
6 prisoner’s parole made at the time of sentencing by  
7 the sentencing judge;

8           “(5) reports of physical, mental, or psychiatric  
9 examination of the eligible prisoner; and

10           “(6) such additional relevant information con-  
11 cerning the eligible prisoner (including information  
12 submitted by the eligible prisoner) as may be reason-  
13 ably available.

14 **“§ 3637. Parole determination proceeding; time**

15           “(a) PROCEEDINGS.—

16           “(1) IN GENERAL.—In making a determination  
17 under this subchapter (relating to parole), the Com-  
18 mission shall conduct a parole determination pro-  
19 ceeding unless it determines on the basis of the eligi-  
20 ble prisoner’s record that the eligible prisoner will be  
21 released on parole.

22           “(2) TIMING.—

23           “(A) IN GENERAL.—Whenever feasible, the  
24 initial parole determination proceeding for a  
25 prisoner eligible for parole under subsection

1 (a)(1) or (b)(1) of section 3634 shall be held  
2 not later than 30 days before the date of such  
3 eligibility for parole.

4 “(B) OTHER PROCEEDINGS.—Whenever  
5 feasible, the initial parole determination pro-  
6 ceeding for a prisoner eligible for parole under  
7 section 3634(b)(2) or who was released on pa-  
8 role, and whose parole has been revoked, shall  
9 be held not later than 120 days following such  
10 prisoner’s imprisonment or reimprisonment in a  
11 Federal institution, as the case may be.

12 “(3) WAIVER.—An eligible prisoner may know-  
13 ingly and intelligently waive any parole determina-  
14 tion proceeding.

15 “(b) NOTICE.—

16 “(1) IN GENERAL.—Not later than 30 days be-  
17 fore a parole determination proceeding relating to an  
18 eligible prisoner, the eligible prisoner shall be pro-  
19 vided with—

20 “(A) written notice of the time and place  
21 of the proceeding; and

22 “(B) reasonable access to any reports or  
23 other documents to be used by the Commission  
24 in making its determination.

1           “(2) WAIVER.—An eligible prisoner may waive  
2 notice of a parole determination proceeding, except  
3 that if notice is not waived, the proceeding shall be  
4 held during the next regularly scheduled proceedings  
5 by the Commission at the institution in which the el-  
6 igible prisoner is confined.

7           “(c) WITHHOLDING OF CERTAIN MATERIALS.—

8           “(1) IN GENERAL.—Subsection (b)(1)(B) shall  
9 not apply to—

10           “(A) diagnostic opinions which, if made  
11 known to the eligible prisoner, could lead to a  
12 serious disruption of the institutional program;

13           “(B) any document which reveals sources  
14 of information obtained upon a promise of con-  
15 fidentiality; or

16           “(C) any other information which, if dis-  
17 closed, might result in harm, physical or other-  
18 wise, to any person.

19           “(2) SUMMARIES.—If access to a report or  
20 other document is not provided by the Commission,  
21 the Bureau of Prisons, or any other agency under  
22 paragraph (1), the Commission, the Bureau, or such  
23 other agency, respectively, shall provide to the eligi-  
24 ble prisoner a summary of the basic contents of the

1 material withheld, bearing in mind the need for con-  
2 fidentiality and the impact on the eligible prisoner.

3 “(d) CONSULTATION AND REPRESENTATION.—

4 “(1) IN GENERAL.—During the period before a  
5 parole determination proceeding described in sub-  
6 section (b)(1), an eligible prisoner may consult, as  
7 provided by the Director, with a representative as  
8 referred to in paragraph (2), and by mail or other-  
9 wise with any person concerning such proceeding.

10 “(2) REPRESENTATION AT PROCEEDING.—An  
11 eligible prisoner shall, if the eligible prisoner choos-  
12 es, be represented at the parole determination pro-  
13 ceeding by a representative who qualifies under rules  
14 promulgated by the Commission. Such rules shall  
15 not exclude attorneys as a class.

16 “(e) TESTIMONY BY ELIGIBLE PRISONER.—An eligi-  
17 ble prisoner shall be allowed to appear and testify on his  
18 or her own behalf at the parole determination proceeding.

19 “(f) RECORDS.—A full and complete record of every  
20 parole determination proceeding shall be retained by the  
21 Commission. Upon request, the Commission shall make  
22 available to any eligible prisoner such record as the Com-  
23 mission may retain of the parole determination pro-  
24 ceeding.

1       “(g) CONFERENCE IF DENIED.—If parole is denied,  
2 and if feasible—

3               “(1) a personal conference to explain the rea-  
4       sons for the denial shall be held between the eligible  
5       prisoner and the Commissioners or examiners con-  
6       ducting the proceeding at the conclusion of the pro-  
7       ceeding; and

8               “(2) the conference shall include advice to the  
9       eligible prisoner as to what steps may be taken to  
10      enhance the chance of being released at a subse-  
11      quent proceeding.

12      “(h) SUBSEQUENT PROCEEDINGS IF DENIED.—In  
13 any case in which release on parole is not granted, subse-  
14 quent parole determination proceedings shall be held not  
15 less frequently than every—

16              “(1) 18 months in the case of an eligible pris-  
17      oner serving a term or terms of imprisonment of  
18      more than 1 year and less than 7 years; and

19              “(2) 24 months in the case of an eligible pris-  
20      oner serving a term or terms of imprisonment of not  
21      less than 7 years.

22      **“§ 3638. Conditions of parole**

23      “(a) CONDITIONS.—

24              “(1) NO OTHER CRIMES.—In every case, the  
25      Commission shall impose as a condition of parole



1 that the parolee not commit another Federal, State,  
2 or local crime.

3 “(2) OTHER CONDITIONS.—The Commission—

4 “(A) may impose or modify other condi-  
5 tions of parole to the extent that such condi-  
6 tions are reasonably related to—

7 “(i) the nature and circumstances of  
8 the offense; and

9 “(ii) the history and characteristics of  
10 the parolee; and

11 “(B) may provide for such supervision and  
12 other limitations as are reasonable to protect  
13 the public welfare.

14 “(b) SCOPE OF CONDITIONS.—

15 “(1) IN GENERAL.—The conditions of parole  
16 should be sufficiently specific to serve as a guide to  
17 supervision and conduct.

18 “(2) CERTIFICATE.—Upon release on parole, a  
19 parolee shall be given a certificate setting forth the  
20 conditions of parole. An effort shall be made to  
21 make certain that the parolee understands the condi-  
22 tions of parole.

23 “(c) TREATMENT.—

1           “(1) IN GENERAL.—Release on parole or re-  
2           lease as if on parole may as a condition of such re-  
3           lease require—

4                   “(A) a parolee to reside in or participate in  
5           the program of a residential community treat-  
6           ment center, or both, for all or part of the pe-  
7           riod of such parole; and

8                   “(B) a parolee who is an addict (as defined  
9           under section 102 of the Controlled Substances  
10          Act (21 U.S.C. 802)) or a drug dependent per-  
11          son (as defined in section 2 of the Public  
12          Health Service Act (42 U.S.C. 201)) to undergo  
13          available medical, psychiatric, or psychological  
14          treatment for drug or alcohol dependency for all  
15          or part of the period of parole.

16          “(2) COSTS.—A parolee residing in a residen-  
17          tial community treatment center pursuant to para-  
18          graph (1) may be required to pay such costs incident  
19          to residence as the Commission determines appro-  
20          priate.

21          “(d) MODIFICATION OF CONDITIONS.—

22                   “(1) IN GENERAL.—The Commission may mod-  
23          ify conditions of parole under this section on its own  
24          motion, or on the motion of a United States proba-  
25          tion officer supervising a parolee.

1           “(2) NOTICE REQUIRED.—A parolee shall re-  
2           ceive notice of a proposed modification of conditions  
3           of parol and a period of not less than 10 days after  
4           receipt of such notice to express the views of the pa-  
5           rolee on the proposed modification.

6           “(3) PERIOD FOR DETERMINATION.—Not later  
7           than 21 days after the end of the 10-day period de-  
8           scribed in paragraph (2), the Commission shall act  
9           upon a motion or application to modify conditions of  
10          parole.

11          “(4) PETITION BY PAROLEE.—A parolee may  
12          petition the Commission for a modification of condi-  
13          tions under this section.

14          “(5) RELATION TO REVOCATION PRO-  
15          CEEDINGS.—This subsection shall not apply to modi-  
16          fications of parole conditions under a revocation pro-  
17          ceeding under section 3643.

18      **“§ 3639. Jurisdiction of Commission**

19          “(a) ATTORNEY GENERAL JURISDICTION.—A pa-  
20          rolee shall remain in the legal custody and under the con-  
21          trol of the Attorney General, until the expiration of the  
22          maximum term or terms of imprisonment to which such  
23          parolee was sentenced.

24          “(b) JURISDICTION OF COMMISSION GENERALLY.—  
25          Except as otherwise provided in this section, the jurisdic-

1 tion of the Commission over the parolee shall terminate  
2 not later than the date of the expiration of the maximum  
3 term or terms for which the parolee was sentenced, except  
4 that—

5           “(1) such jurisdiction shall terminate at an ear-  
6 lier date to the extent provided under section  
7 3624(b)(5) or section 3640; and

8           “(2) in the case of a parolee who has been con-  
9 victed of a Federal, State, or local crime committed  
10 subsequent to release on parole that is punishable by  
11 a term of imprisonment, detention, or incarceration  
12 in any penal facility, the Commission shall deter-  
13 mine, in accordance with subsection (b) or (c) of sec-  
14 tion 3643, whether all or any part of the unexpired  
15 term being served at the time of parole shall run  
16 concurrently or consecutively with the sentence im-  
17 posed for the new offense, but in no case shall such  
18 service together with such time as the parolee has  
19 previously served in connection with the offense for  
20 which the parolee was paroled, be longer than the  
21 maximum term for which the parolee was sentenced  
22 in connection with such offense.

23           “(c) INTENTIONAL FAILURE OR REFUSAL.—If a pa-  
24 rolee intentionally refuses or fails to respond to any rea-  
25 sonable request, order, summons, or warrant of the Com-

1 mission or any member or agent thereof, the jurisdiction  
2 of the Commission may be extended for the period during  
3 which the parolee so refuses or fails to respond.

4 “(d) OTHER SENTENCES.—The parole of any parolee  
5 shall run concurrently with the period of parole or proba-  
6 tion under any other Federal, State, or local sentence.  
7 Upon the termination of the jurisdiction of the Commis-  
8 sion over any parolee, the Commission shall issue a certifi-  
9 cate of discharge to the parolee and to such other agencies  
10 as it may determine.

11 **“§ 3640. Early termination of parole**

12 “(a) IN GENERAL.—Upon its own motion or upon re-  
13 quest of the parolee, the Commission may terminate su-  
14 pervision over a parolee prior to the termination of juris-  
15 diction under section 3639.

16 “(b) STATUS REVIEWS.—

17 “(1) IN GENERAL.—Not later than 2 years  
18 after a parolee is released on parole, and every year  
19 thereafter, the Commission shall review the status of  
20 the parolee to determine the need for continued su-  
21 pervision.

22 “(2) EXCLUSION OF CERTAIN PERIODS.—In  
23 calculating the 2-year period described in paragraph  
24 (1), there shall not be included any period of release  
25 on parole prior to the most recent such release, nor

1 any period served in confinement on any other sen-  
2 tence.

3 “(c) TERMINATION AFTER 5 YEARS.—

4 “(1) IN GENERAL.—Five years after a parolee  
5 is released on parole, the Commission shall termi-  
6 nate supervision over the parolee unless the Commis-  
7 sion determines, after a hearing conducted in ac-  
8 cordance with the procedures prescribed in section  
9 3643(a)(2), that such supervision should not be ter-  
10 minated because there is a likelihood that the pa-  
11 rolee will engaged in conduct violating any criminal  
12 law.

13 “(2) CONTINUATION OF PAROLE.—If super-  
14 vision is not terminated under paragraph (1), the  
15 parolee may request a hearing annually thereafter,  
16 and a hearing, with procedures in accordance with  
17 paragraph (1), shall be conducted with respect to  
18 such termination of supervision not less frequently  
19 than every 2 years.

20 “(3) EXCLUSION OF CERTAIN PERIODS.—In  
21 calculating the 5-year period described in paragraph  
22 (1), there shall not be included any period of release  
23 on parole prior to the most recent such release, nor  
24 any period served in confinement on any other sen-  
25 tence.

1 **“§ 3641. Aliens**

2 “(a) ELIGIBILITY OF PAROLE FOR ALIENS.—Not-  
3 withstanding any other provision of law, aliens shall be  
4 eligible for parole under this title.

5 “(b) ALIENS WITH FINAL ORDERS OF REMOVAL.—  
6 When an alien prisoner subject to a final order of removal  
7 becomes eligible for parole, the Commission may authorize  
8 the release of such prisoner and, when parole becomes ef-  
9 fective, may deliver such prisoner to a duly authorized im-  
10 migration official for removal.

11 **“§ 3642. Summons to appear or warrant for retaking**  
12 **of parolee**

13 “(a) IN GENERAL.—If a parolee is alleged to have  
14 violated the conditions of parole, the Commission may—

15 “(1) summon such parolee to appear at a hear-  
16 ing conducted under section 3643; or

17 “(2) issue a warrant and retake the parolee as  
18 provided in this section.

19 “(b) ISSUANCE OF SUMMONS OR WARRANT.—

20 “(1) IN GENERAL.—A summons or warrant  
21 issued under this section shall be issued by the Com-  
22 mission as soon as practicable after discovery of the  
23 alleged violation, except when delay is determined  
24 necessary.

25 “(2) IMPRISONMENT.—Imprisonment in an in-  
26 stitution shall not constitute grounds for delay of

1 such issuance, except that, in the case of any parolee  
2 charged with a criminal offense, issuance of a sum-  
3 mons or warrant may be suspended pending disposi-  
4 tion of the charge.

5 “(c) NOTICE.—A summons or warrant issued under  
6 this section shall provide the parolee with written notice  
7 of—

8 “(1) the conditions of parole imposed under  
9 section 3638 that the parolee is alleged to have vio-  
10 lated;

11 “(2) the rights of the parolee under this sub-  
12 chapter; and

13 “(3) the possible action which may be taken by  
14 the Commission.

15 “(d) EXECUTION OF WARRANTS.—An officer of a  
16 Federal penal or correctional institution, or a Federal offi-  
17 cer authorized to serve criminal process within the United  
18 States, to whom a warrant issued under this section is  
19 delivered, shall execute such warrant by taking such pa-  
20 rolee and returning the parolee to the custody of the re-  
21 gional commissioner, or to the custody of the Attorney  
22 General, if the Commission shall so direct.

23 **“§ 3643. Revocation of parole**

24 “(a) REVOCATION GENERALLY.—



1           “(1) IN GENERAL.—Except as provided in sub-  
2 sections (b) and (c)—

3           “(A) an alleged parole violator summoned  
4 or retaken under section 3642 shall be afforded  
5 the opportunity to have a preliminary hearing  
6 at or reasonably near the place of the alleged  
7 parole violation or arrest, without unnecessary  
8 delay, to determine if there is probable cause to  
9 believe that the parolee has violated a condition  
10 of parole;

11           “(B) upon a finding of probable cause, and  
12 except as provided in subparagraph (C)—

13           “(i) a digest shall be prepared by the  
14 Commission setting forth in writing the  
15 factors considered and the reasons for the  
16 decision; and

17           “(ii) a copy of the digest shall be  
18 given to the parolee within a reasonable  
19 period of time;

20           “(C) the Commission may restore any pa-  
21 rolee to parole supervision if—

22           “(i) continuation of revocation pro-  
23 ceedings is not warranted;

24           “(ii) incarceration of the parolee  
25 pending further revocation proceedings is

1 not warranted by the alleged frequency or  
2 seriousness of such violation or violations;

3 “(iii) the parolee is not likely to fail to  
4 appear for further proceedings; and

5 “(iv) the parolee does not constitute a  
6 danger to himself, herself, or others; and

7 “(D) not later than 60 days after a finding  
8 of probable cause, a revocation hearing shall be  
9 held at or reasonably near the place of the al-  
10 leged parole violation or arrest, except that a  
11 revocation hearing may be held at the same  
12 time and place set for the preliminary hearing.

13 “(2) HEARING PROCEDURES.—For a hearing  
14 held under paragraph (1)—

15 “(A) notice shall be given to the parolee of  
16 the conditions of parole alleged to have been  
17 violated, and the time, place, and purposes of  
18 the scheduled hearing;

19 “(B) the parolee shall have an opportunity  
20 to be represented by an attorney (retained by  
21 the parolee, or if the parolee is financially un-  
22 able to retain counsel, counsel shall be provided  
23 under section 3006A) or, if the parolee so  
24 chooses, a representative as provided by rules

1 and regulations, unless the parolee knowingly  
2 and intelligently waives such representation;

3 “(C) the parolee shall have an opportunity  
4 to appear and testify, and present witnesses  
5 and relevant evidence on his or her own behalf;  
6 and

7 “(D) the parolee shall have an opportunity  
8 to be apprised of the evidence against the pa-  
9 rolee and, if the parolee so requests, to confront  
10 and cross-examine adverse witnesses, unless the  
11 Commission specifically finds substantial reason  
12 for not so allowing.

13 “(3) SUBPOENAS.—For purposes of paragraph  
14 (1), the Commission may subpoena witnesses and  
15 evidence, and pay witness fees as established for the  
16 courts of the United States. If a person refuses to  
17 obey such a subpoena, the Commission may petition  
18 a court of the United States for the judicial district  
19 in which such parole proceeding is being conducted,  
20 or in which such person may be found, to request  
21 such person to attend, testify, and produce evidence.  
22 The court may issue an order requiring such person  
23 to appear before the Commission, when the court  
24 finds such information, thing, or testimony directly  
25 related to a matter with respect to which the Com-

1 mission is empowered to make a determination  
2 under this section. Failure to obey such an order is  
3 punishable by such court as a contempt. All process  
4 in such a case may be served in the judicial district  
5 in which such a parole proceeding is being con-  
6 ducted, or in which such person may be found.

7 “(b) CONVICTION OF CRIMES WHILE ON PAROLE.—

8 “(1) IN GENERAL.—Conviction for a Federal,  
9 State, or local crime committed subsequent to re-  
10 lease on parole shall constitute probable cause for  
11 purposes of subsection (a).

12 “(2) PAROLEES INCARCERATED.—If a parolee  
13 has been convicted of a Federal, State, or local  
14 crime and is serving a new sentence in an institu-  
15 tion, a parole revocation warrant or summons issued  
16 under section 3642 may be placed against the pa-  
17 rolee as a detainer. Not later than 180 days after  
18 the Commission receives notice of the placement of  
19 a detainer, the detainer shall be reviewed by the  
20 Commission. The parolee shall receive notice of the  
21 pending review, have an opportunity to submit a  
22 written application containing information relative to  
23 the disposition of the detainer, and, unless waived,  
24 shall have counsel as provided in subsection

1 (a)(2)(B) to assist in the preparation of such appli-  
2 cation.

3 “(3) HEARING.—If the Commission determines  
4 that additional information is needed to review a de-  
5 tainer under paragraph (2), a dispositional hearing  
6 may be held at the institution in which the parolee  
7 is confined. The parolee shall receive notice of such  
8 hearing, be allowed to appear and testify on his or  
9 her own behalf, and, unless waived, shall have coun-  
10 sel as provided in subsection (a)(2)(B).

11 “(4) RESOLUTION.—Following the review relat-  
12 ing to the disposition of a detainer, the Commission  
13 may—

14 “(A) let the detainer stand; or

15 “(B) withdraw the detainer.

16 “(c) CERTAIN ALLEGED PAROLE VIOLATORS.—

17 “(1) REVOCATION HEARING.—

18 “(A) IN GENERAL.—An alleged parole vio-  
19 lator described in subparagraph (B) shall re-  
20 ceive a revocation hearing within 90 days of the  
21 date of retaking.

22 “(B) COVERED ALLEGED PAROLE VIOLA-  
23 TORS.—An alleged parole violator described in  
24 this subparagraph is an alleged parole violator  
25 who—

1           “(i) is summoned or retaken by war-  
2           rant under section 3642 and knowingly  
3           and intelligently waives the right to a hear-  
4           ing under subsection (a);

5           “(ii) knowingly and intelligently ad-  
6           mits violation at a preliminary hearing  
7           held under subsection (a)(1)(A); or

8           “(iii) is retaken under subsection (b).

9           “(C) CONDUCT OF HEARING.—The Com-  
10          mission may conduct a hearing under subpara-  
11          graph (A) at the institution to which the pa-  
12          rolee has been returned, and the alleged parole  
13          violator shall receive notice of the hearing, be  
14          allowed to appear and testify on his or her own  
15          behalf, and, unless waived, shall have counsel or  
16          another representative as provided in subsection  
17          (a)(2)(B).

18          “(d) DISPOSITION.—

19               “(1) IN GENERAL.—If a parolee is summoned  
20          or retaken under section 3642, and the Commission  
21          finds, in accordance with this section (including  
22          paragraph (2) of this subsection) and by a prepon-  
23          derance of the evidence, that the parolee has violated  
24          a condition of parole, the Commission may—

25               “(A) restore the parolee to supervision;

1           “(B) reprimand the parolee;

2           “(C) modify the conditions of the parole of  
3 the parolee;

4           “(D) refer the parolee to a residential com-  
5 munity treatment center for all or part of the  
6 remainder of the original sentence; or

7           “(E) formally revoke parole or release as if  
8 on parole under this title.

9           “(2) REQUIREMENTS.—The Commission may  
10 take an action under paragraph (1) if it has taken  
11 into consideration—

12           “(A) whether the parolee has been con-  
13 victed of any Federal, State, or local crime sub-  
14 sequent to release on parole, and the serious-  
15 ness thereof; and

16           “(B) whether the action is warranted by  
17 the frequency or seriousness of the violation by  
18 the parolee of any other condition or conditions  
19 of parole.

20           “(e) NOTICE.—Not later than 21 days, excluding  
21 holidays, after a revocation hearing under this section, the  
22 Commission shall furnish the parolee with a written notice  
23 of its determination. If parole is revoked, a digest shall  
24 be prepared by the Commission setting forth in writing

1 the factors considered and reasons for such action, a copy  
2 of which shall be given to the parolee.

3 **“§ 3644. Reconsideration and appeal**

4 “(a) IN GENERAL.—If parole release is denied under  
5 section 3635, parole conditions are imposed or modified  
6 under section 3638, parole discharge is denied under sec-  
7 tion 3640(e), or parole is modified or revoked under sec-  
8 tion 3643, the individual to whom such decision applies  
9 may have the decision reconsidered by submitting a writ-  
10 ten application to the regional Commissioner not later  
11 than 30 days after the date on which the decision is ren-  
12 dered.

13 “(b) REVIEW BY REGIONAL COMMISSIONER.—Not  
14 later than 30 days after receipt of an application under  
15 subsection (a), a regional Commissioner shall—

16 “(1) acting in accordance with rules and regula-  
17 tions, reaffirm, modify, or reverse the original deci-  
18 sion; and

19 “(2) inform the applicant in writing of the deci-  
20 sion and the reasons therefor.

21 “(c) APPEAL TO NATIONAL APPEALS BOARD.—

22 “(1) IN GENERAL.—Any decision made under  
23 subsection (b) which is adverse to the applicant for  
24 reconsideration may be appealed by the individual to  
25 the National Appeals Board by submitting a written



1 notice of appeal not later than 30 days following the  
2 date on which such decision is rendered.

3 “(2) REVIEW.—In accordance with rules and  
4 regulations, the National Appeals Board—

5 “(A) not later than 60 days after receipt  
6 of an appellant’s papers, shall reaffirm, modify,  
7 or reverse the decision; and

8 “(B) shall inform the appellant in writing  
9 of the decision and the reasons therefor.

10 **“§ 3645. Young adult offenders**

11 “(a) DEFINITION.—In this section, the term ‘young  
12 adult offender’ means an individual—

13 “(1) who has been convicted of a Federal of-  
14 fense; and

15 “(2) on the date of the conviction, is not less  
16 than 22 years of age and is less than 26 years of  
17 age.

18 “(b) TREATMENT AS A JUVENILE.—A young adult  
19 offender may be deemed a juvenile for purposes of chapter  
20 403 if, after taking into consideration the previous record  
21 of the young adult offender as to delinquency or criminal  
22 experience, the social background, capabilities, mental and  
23 physical health of the young adult offender, and such  
24 other factors as may be considered pertinent, the court  
25 finds that there are reasonable grounds to believe that the

1 young adult offender will benefit from being treated as a  
2 juvenile under chapter 403.

3 **“§ 3646. Applicability of Administrative Procedure**  
4 **Act**

5 “(a) IN GENERAL.—The Commission shall be an  
6 agency for purposes of chapter 5 of title 5, except for sec-  
7 tions 554, 555, 556, and 557.

8 “(b) RULEMAKING.—For purposes of subsection (a),  
9 section 553(b)(3)(A) of title 5 shall be applied as though  
10 ‘, general statements of policy,’ were struck.

11 “(c) JUDICIAL REVIEW.—To the extent that actions  
12 of the Commission under section 3632(a)(1) are not in  
13 accord with section 553 of title 5, they shall be reviewable  
14 in accordance with chapter 7 of title 5.

15 “(d) EXCLUSION OF CERTAIN ACTIONS.—Actions of  
16 the Commission under paragraphs (1), (2), and (3) of sec-  
17 tion 3632(b) shall be considered actions committed to  
18 agency discretion for purposes of section 701(a)(2) of title  
19 5.”.

20 (b) PERMANENT CONTINUATION OF PAROLE COM-  
21 MISSION.—Notwithstanding section 235(b) of the Sen-  
22 tencing Reform Act of 1984 (18 U.S.C. 3551 note), the  
23 United States Parole Commission shall not be terminated  
24 under such section and appointments to the United States  
25 Parole Commission shall be made in accordance with sec-

1 tion 4202 of title 18, United States Code, as in effect on  
2 the day before the effective date of the Sentencing Reform  
3 Act of 1984 under section 235(a) of such Act (18 U.S.C.  
4 3551 note).

5 (c) CREDIT TOWARD SERVICE OF SENTENCE FOR  
6 SATISFACTORY BEHAVIOR.—Section 3624(b) of title 18,  
7 United States Code, is amended by adding at the end the  
8 following:

9 “(5) A prisoner having served the term or  
10 terms of imprisonment of the prisoner, less credit to-  
11 ward the service of the prisoner’s sentence under  
12 this subsection, shall, upon release, be deemed as if  
13 released on parole until the expiration of the max-  
14 imum term or terms for which the prisoner was sen-  
15 tenced less 180 days. This paragraph shall not pre-  
16 vent delivery of a prisoner to the authorities of any  
17 State otherwise entitled to custody of the prisoner.”.

18 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

19 (1) Section 3553 of title 18, United States  
20 Code, is amended—

21 (A) in subsection (b), by inserting “max-  
22 imum” before “sentence of the kind” each place  
23 it appears; and

1 (B) in subsection (c), in the matter pre-  
2 ceding paragraph (1), by inserting “maximum”  
3 before “sentence—”.

4 (2) Section 3621(a) of title 18, United States  
5 Code, is amended by inserting “on parole” before  
6 “for satisfactory behavior”.

7 (3) Section 3624 of title 18, United States  
8 Code, is amended—

9 (A) in subsection (a), by striking “A pris-  
10 oner” and inserting “Subject to release on pa-  
11 role under subchapter D, a prisoner”;

12 (B) in subsection (b)(2), by inserting “,  
13 which shall not include a release on parole  
14 under subchapter D” after “released from cus-  
15 tody”; and

16 (C) in subsection (d), by inserting “or on  
17 parole under subchapter D” after “Upon the  
18 release of a prisoner”.

19 (4) Section 4321 of title 18, United States  
20 Code, is amended by inserting “or parole” before the  
21 period at the end.

22 (5) Chapter 403 of title 18, United States  
23 Code, is amended—

24 (A) by inserting after section 5040 the fol-  
25 lowing:

1 **“§ 5041. Parole**

2 “A juvenile delinquent who has been committed may  
3 be released on parole at any time under such conditions  
4 and regulations as the United States Parole Commission  
5 determines proper in accordance with section 3635.”; and

6 (B) by striking the item relating to section  
7 5041 and inserting the following:

“5041. Parole.”.

8 (6) The table of subchapters for chapter 229 of  
9 title 18, United States Code, is amended by insert-  
10 ing after the item relating to subchapter C the fol-  
11 lowing:

**“D. Parole ..... 3631”.**

12 (7) The Controlled Substances Act (21 U.S.C.  
13 801 et seq.) is amended—

14 (A) in section 401(b)(1) (21 U.S.C.  
15 841(b)(1))—

16 (i) in subparagraph (A), in the matter  
17 following clause (viii), by striking the last  
18 sentence;

19 (ii) in subparagraph (B), in the mat-  
20 ter following clause (viii), by striking the  
21 last sentence; and

22 (iii) in subparagraph (C), in the last  
23 sentence, by striking “, nor shall a person

1 so sentenced be eligible for parole during  
2 the term of such a sentence”;

3 (B) in section 419(d) (21 U.S.C. 860(d)),  
4 by striking the second sentence; and

5 (C) in section 420(e) (21 U.S.C. 861(e)),  
6 by striking the second sentence.

7 (8) Section 1010(b) of the Controlled Sub-  
8 stances Import and Export Act (21 U.S.C. 960(b))  
9 is amended—

10 (A) in paragraph (1), in the matter fol-  
11 lowing subparagraph (H), by striking the last  
12 sentence; and

13 (B) in paragraph (2), in the matter fol-  
14 lowing subparagraph (H), by striking the last  
15 sentence.

16 (e) APPLICABILITY.—The amendments made by this  
17 section shall apply with respect to any sentence imposed  
18 on or after January 1, 2019.

19 **SEC. 6. CFPB OVERSIGHT OF PROVIDERS OF MONEY**  
20 **TRANSFER SERVICES FOR CORRECTIONAL**  
21 **AND IMMIGRATION DETENTION FACILITIES.**

22 (a) DEFINITIONS.—In this section—

23 (1) the term “Bureau” means the Bureau of  
24 Consumer Financial Protection;

1           (2) the term “correctional facility” means a jail,  
2           prison, or other detention facility used to house peo-  
3           ple who have been arrested, detained, held, or con-  
4           victed by a criminal justice agency or a court;

5           (3) the term “covered inmate” means—

6                   (A) an individual who is being held, de-  
7                   tained, or incarcerated in a correctional facility;  
8                   and

9                   (B) an individual who is being held in an  
10                  immigration detention facility;

11          (4) the term “covered provider” means a pro-  
12          vider of a service, including a money transfer serv-  
13          ice, that—

14                   (A) facilitates the electronic transfer of  
15                   funds from an individual who is not a covered  
16                   inmate to a covered inmate;

17                   (B) provides a payment to a covered in-  
18                   mate who is being released from a correctional  
19                   facility or an immigration detention facility; or

20                   (C) provides a payment on behalf of a cov-  
21                   ered inmate; and

22          (5) the term “immigration detention facility”  
23          means a Federal, State, or local government facility,  
24          or a privately owned and operated facility, that is  
25          used, in whole or in part, to hold individuals under

1 the authority of the Director of U.S. Immigration  
2 and Customs Enforcement, including facilities that  
3 hold such individuals under a contract or agreement  
4 with the Department of Homeland Security.

5 (b) REASONABLE AND PROPORTIONAL FEE OR  
6 CHARGE.—The amount of any fee or charge that a cov-  
7 ered provider may impose with respect to a service de-  
8 scribed in subparagraph (A), (B), or (C) of subsection  
9 (a)(4) shall be reasonable and proportional to the relative  
10 cost or value of the service.

11 (c) REQUIREMENT TO ISSUE REGULATIONS.—

12 (1) IN GENERAL.—Not later than 3 years after  
13 the date of enactment of this Act, the Bureau shall  
14 issue final rules to establish standards for assessing  
15 whether the amount of any fee or charge described  
16 in subsection (b) is reasonable and proportional to  
17 the relative cost or value of the service provided by  
18 a covered provider.

19 (2) CONSIDERATIONS.—In issuing the final  
20 rules under paragraph (1), the Bureau shall con-  
21 sider—

22 (A) whether there are alternative means  
23 for transferring funds into correctional facilities  
24 and immigration detention facilities;



1 (B) whether those alternatives can reason-  
2 ably be considered comparable;

3 (C) differing cost structures for transfer-  
4 ring funds into correctional facilities and immi-  
5 gration detention facilities; and

6 (D) such other factors as the Bureau may  
7 determine necessary or appropriate.

8 (3) DIFFERENTIATION PERMITTED.—In issuing  
9 the final rules under paragraph (1), the Bureau may  
10 establish different standards for different types of  
11 fees and charges, as appropriate.

12 **SEC. 7. RESTRICTIONS ON THE PROVISION OF INMATE**  
13 **TELEPHONE AND VIDEO SERVICE.**

14 (a) DEFINITIONS.—Section 226(a) of the Commu-  
15 nications Act of 1934 (47 U.S.C. 226(a)) is amended by  
16 adding at the end the following:

17 “(10) The term ‘ancillary fee’ includes any  
18 charge or fee that is imposed on a user of inmate  
19 telephone and video service in addition to the per-  
20 minute rate and connection charge.

21 “(11) The term ‘collect’ or ‘collect call’ means  
22 a telephone call or video call from a person incarcer-  
23 ated in a correctional institution that is billed to the  
24 subscriber receiving the call.

1           “(12) The term ‘commission’ means a fee or  
2 other payment by a provider of inmate telephone  
3 and video service to an administrator of a correc-  
4 tional institution, department of correction, or simi-  
5 lar entity, based upon, or partly upon, inmate tele-  
6 phone and video service revenue.

7           “(13) The term ‘debit account’ means the pay-  
8 ment of inmate telephone and video service through  
9 a prepaid card or other account of a prisoner, which  
10 can be accessed only through an access code, per-  
11 sonal identification number, or similar identifier.

12           “(14) The term ‘inmate telephone and video  
13 service’ includes the provision of telephone and video  
14 service enabling persons incarcerated in correctional  
15 institutions to originate calls at payphones, tele-  
16 phones, or video kiosks that are designated for the  
17 personal use of prisoners, regardless of whether the  
18 calls are collect, paid through a debit account, or  
19 paid through any other means.

20           “(15) The term ‘provider of inmate telephone  
21 and video service’ means any common carrier that  
22 provides inmate telephone and video service or any  
23 other person determined by the Commission to be  
24 providing inmate telephone and video service.”.

1 (b) REGULATIONS.—Section 226 of the Communica-  
2 tions Act of 1934 (47 U.S.C. 226) is further amended—

3 (1) by redesignating subsection (i) as subsection  
4 (k); and

5 (2) by inserting after subsection (h) the fol-  
6 lowing:

7 “(i) REGULATION OF INMATE TELEPHONE AND  
8 VIDEO SERVICE.—

9 “(1) IN GENERAL.—In order to ensure that  
10 charges for inmate telephone and video service are  
11 just, reasonable, and nondiscriminatory, not later  
12 than 1 year after the date of enactment of the Jus-  
13 tice is Not For Sale Act of 2017, the Commission  
14 shall adopt regulations on the use of inmate tele-  
15 phone and video service that—

16 “(A) prescribe a maximum uniform per-  
17 minute compensation rate;

18 “(B) prescribe a maximum uniform service  
19 connection or other per-call compensation rate;

20 “(C) prescribe variable maximum com-  
21 pensation rates depending on such factors as  
22 carrier costs, the size of the correctional facility  
23 served, and other relevant factors identified by  
24 the Commission;

1           “(D) require providers of inmate telephone  
2 and video service to offer both collect calling  
3 and debit account services;

4           “(E) address the payment of commissions  
5 by providers of inmate telephone and video  
6 service to administrators of correctional institu-  
7 tions, departments of correction, and similar  
8 entities by—

9                   “(i) prohibiting such payments; or

10                   “(ii) limiting commission payments;

11           “(F) require administrators of correctional  
12 institutions, departments of correction, and  
13 similar entities to allow more than 1 provider of  
14 inmate telephone and video service to provide  
15 inmate telephone and video service at a correc-  
16 tional institution so that prisoners have a choice  
17 of such providers; and

18           “(G) prohibit or substantially limit any an-  
19 cillary fees imposed by a provider of inmate  
20 telephone and video service on a user of the  
21 service.

22           “(2) SCOPE.—

23                   “(A) IN GENERAL.—The regulations  
24 adopted by the Commission under this sub-  
25 section—

1                   “(i) shall be technologically neutral;  
2                   and

3                   “(ii) shall not jeopardize legitimate se-  
4                   curity and penological interests.

5                   “(B) IMPACT ON REVENUE.—To the extent  
6                   the regulations adopted by the Commission  
7                   under this subsection reduce or eliminate the  
8                   revenue derived by administrators of correc-  
9                   tional institutions, departments of correction,  
10                  and similar entities from the receipt of commis-  
11                  sions, such effects of the regulations shall not  
12                  be considered to be jeopardizing or otherwise  
13                  affecting legitimate security or penological in-  
14                  terests.

15                  “(3) PERIODIC REVIEW.—The Commission shall  
16                  review, on a biennial basis, the regulations adopted  
17                  under this subsection, including to determine wheth-  
18                  er any compensation rates established by the Com-  
19                  mission should be modified.

20                  “(4) STATE PREEMPTION.—To the extent that  
21                  any State, local government, or private correctional  
22                  facility requirements are inconsistent with the regu-  
23                  lations of the Commission affecting or pertaining to  
24                  inmate telephone and video service, including restric-  
25                  tions on the payment of commissions based upon in-

1       mate telephone and video service revenues or earn-  
2       ings, the regulations of the Commission on such  
3       matters shall preempt the State, local government,  
4       or private correctional facility requirements.

5       “(j) INMATE TELEPHONE AND VIDEO SERVICE  
6 FULLY SUBJECT TO SECTIONS 201, 205, 251, 252, AND  
7 276.—

8               “(1) IN GENERAL.—Inmate telephone and video  
9       service shall be fully subject to the requirements of  
10      sections 201, 205, 251, 252, and 276.

11              “(2) RESTRICTION.—A provider of inmate tele-  
12      phone and video service may not block or otherwise  
13      refuse to carry a call placed by an incarcerated per-  
14      son on the grounds that the provider has no contrac-  
15      tual or other arrangement with the local exchange  
16      carrier serving the intended recipient of the call or  
17      other common carrier involved in any portion of the  
18      transmission of the call.”.

19 **SEC. 8. TERMINATION OF DETENTION BED QUOTA.**

20       (a) IN GENERAL.—The matter under the heading  
21 “SALARIES AND EXPENSES” under the heading “UNITED  
22 STATES IMMIGRATION AND CUSTOMS ENFORCEMENT”  
23 under title II of the Department of Homeland Security  
24 Appropriations Act, 2016 (division F of Public Law 114–  
25 113; 129 Stat. 2497) is amended by striking “*Provided*

1 *further*, That funding made available under this heading  
2 shall maintain a level of not less than 34,000 detention  
3 beds through September 30, 2016:”.

4 (b) DETENTION CAPACITY.—Notwithstanding any  
5 other provision of law, the number of detention beds main-  
6 tained by U.S. Immigration and Customs Enforcement  
7 shall be determined by the Secretary of Homeland Secu-  
8 rity and shall be based solely on detention needs.

9 (c) ALTERNATIVES TO DETENTION.—

10 (1) IN GENERAL.—The Secretary of Homeland  
11 Security shall establish nationwide alternatives to  
12 detention programs that incorporate case manage-  
13 ment services in each field office of the Department  
14 of Homeland Security to ensure appearances at im-  
15 migration proceedings and public safety.

16 (2) CONTRACT AUTHORITY.—The Secretary  
17 may contract with nongovernmental community-  
18 based organizations—

19 (A) to conduct screening of detainees;

20 (B) to operate community-based super-  
21 vision programs; and

22 (C) to implement secure alternatives that  
23 allow U.S. Immigration and Customs Enforce-  
24 ment to maintain custody over the alien.

1           (3) ASSESSMENTS.—The Secretary shall regu-  
2 larly assess the demand for alternative to detention  
3 programs and make available sufficient alternative  
4 to detention slots regardless of proximity to available  
5 detention beds. Alternative programs shall offer a  
6 continuum of supervision mechanisms and options,  
7 including community support, depending on an as-  
8 sessment of each individual’s circumstances. Infor-  
9 mation regarding the amount of slots available in  
10 each area shall be made public.

11           (4) INDIVIDUALIZED DETERMINATIONS.—In de-  
12 termining whether to use alternatives to detention  
13 programs, the Secretary shall make an individualized  
14 determination, and for each individual placed in an  
15 alternatives to detention program, shall review the  
16 level of supervision on a monthly basis. Alternatives  
17 to detention programs shall not be used when release  
18 on bond or recognizance is determined to be a suffi-  
19 cient measure to ensure appearances at immigration  
20 proceedings and public safety. Detention shall not be  
21 used when alternatives to detention programs are  
22 determined to be a sufficient measure to ensure ap-  
23 pearances at immigration proceedings and public  
24 safety.



1           (5) CUSTODY.—The Secretary may use alter-  
2 natives to detention programs to maintain custody  
3 over any alien detained under the Immigration and  
4 Nationality Act, except for aliens detained under  
5 section 236A of such Act (8 U.S.C. 1226a). If an  
6 individual is not eligible for release from custody or  
7 detention, the Secretary shall consider the alien for  
8 placement in alternative programs that maintain  
9 custody over the alien.

10           (6) VULNERABLE POPULATIONS.—

11           (A) DEFINED TERM.—In this paragraph,  
12 the term “vulnerable population” includes, but  
13 is not limited to, asylum seekers, victims of tor-  
14 ture or trafficking, families with minor children,  
15 pregnant women, nursing mothers, individuals  
16 who are gay, lesbian, bisexual, or transgender,  
17 individuals with a mental or physical disability,  
18 and individuals who are older than 65 years of  
19 age.

20           (B) CONSIDERATIONS FOR PLACEMENT.—

21 In determining whether to place a detainee in  
22 an alternatives to detention program, the Sec-  
23 retary shall consider whether the detainee is a  
24 member of a vulnerable population. Notwith-  
25 standing section 236 of the Immigration and

1           Nationality Act (8 U.S.C. 1226), a member of  
2           a vulnerable population whose needs cannot be  
3           adequately met by a detention facility may not  
4           be held in a detention facility unless the Sec-  
5           retary determines such placement is in the in-  
6           terest of national security.

7 **SEC. 9. OVERSIGHT OF DETENTION FACILITIES.**

8           (a) DEFINITIONS.—In this section:

9               (1) APPLICABLE STANDARDS.—The term “ap-  
10           plicable standards” means the most recent version of  
11           detention standards and detention-related policies  
12           issued by the Secretary or the Director of U.S. Im-  
13           migration and Customs Enforcement.

14               (2) DETENTION FACILITY.—The term “deten-  
15           tion facility” means a Federal, State, or local gov-  
16           ernment facility, or a privately owned and operated  
17           facility, that is used, in whole or in part, to hold in-  
18           dividuals under the authority of the Director of U.S.  
19           Immigration and Customs Enforcement, including  
20           facilities that hold such individuals under a contract  
21           or agreement with the Department of Homeland Se-  
22           curity.

23           (b) DETENTION REQUIREMENTS.—The Secretary of  
24           Homeland Security shall ensure that all persons detained  
25           pursuant to the Immigration and Nationality Act (8

1 U.S.C. 1101 et seq.) are treated humanely and benefit  
2 from the protections set forth in this section.

3 (c) OVERSIGHT REQUIREMENTS.—

4 (1) ANNUAL INSPECTION.—All detention facili-  
5 ties housing aliens in the custody of the Department  
6 of Homeland Security shall be inspected, for compli-  
7 ance with applicable detention standards issued by  
8 the Secretary and other applicable regulations, by—

9 (A) the Secretary of Homeland Security at  
10 least annually; and

11 (B) an independent, third-party auditor at  
12 least biannually.

13 (2) ROUTINE OVERSIGHT.—In addition to the  
14 inspections required under paragraph (1), the Sec-  
15 retary shall conduct routine oversight of the deten-  
16 tion facilities described in paragraph (1), including  
17 unannounced inspections.

18 (3) AVAILABILITY OF RECORDS.—All detention  
19 facility contracts, memoranda of agreement, audits,  
20 inspections, evaluations and reviews, include those  
21 conducted by the Office for Civil Rights and Civil  
22 Liberties and the Office of Inspector General of the  
23 Department of Homeland Security, shall be consid-  
24 ered records for purposes of section 552(f)(2) of title  
25 5, United States Code.

1           (4) CONSULTATION.—The Secretary shall seek  
2 input from nongovernmental organizations regarding  
3 their independent opinion of specific facilities.

4           (d) COMPLIANCE MECHANISMS.—

5                 (1) AGREEMENTS.—

6                     (A) NEW AGREEMENTS.—Compliance with  
7 applicable standards of the Secretary of Home-  
8 land Security and all applicable regulations, and  
9 meaningful financial penalties for failure to  
10 comply, shall be a material term in any new  
11 contract, memorandum of agreement, or any re-  
12 negotiation, modification, or renewal of an ex-  
13 isting contract or agreement, including fee ne-  
14 gotiations, executed with detention facilities.

15                    (B) EXISTING AGREEMENTS.—Not later  
16 than 180 days after the date of the enactment  
17 of this Act, the Secretary shall secure a modi-  
18 fication incorporating these terms for any exist-  
19 ing contracts or agreements that will not be re-  
20 negotiated, renewed, or otherwise modified.

21                    (C) CANCELLATION OF AGREEMENTS.—

22 Unless the Secretary provides a reasonable ex-  
23 tension to a specific detention facility that is  
24 negotiating in good faith, contracts or agree-  
25 ments with detention facilities that are not

1 modified within 1 year of the date of the enact-  
2 ment of this Act will be cancelled.

3 (D) PROVISION OF INFORMATION.—In  
4 making modifications under this paragraph, the  
5 Secretary shall require that detention facilities  
6 provide to the Secretary all contracts, memo-  
7 randa of agreement, evaluations, and reviews  
8 regarding the facility on a regular basis. The  
9 Secretary shall make these materials publicly  
10 available on a timely and regular basis.

11 (2) FINANCIAL PENALTIES.—

12 (A) REQUIREMENT TO IMPOSE.—Subject  
13 to subparagraph (C), the Secretary shall impose  
14 meaningful financial penalties upon facilities  
15 that fail to comply with applicable detention  
16 standards issued by the Secretary and other ap-  
17 plicable regulations.

18 (B) TIMING OF IMPOSITION.—Financial  
19 penalties imposed under subparagraph (A) shall  
20 be imposed immediately after a facility fails to  
21 achieve an adequate or the equivalent median  
22 score in any performance evaluation.

23 (C) WAIVER.—The requirements of sub-  
24 paragraph (A) may be waived if the facility cor-

1           rects the noted deficiencies and receives an ade-  
2           quate score in not more than 90 days.

3           (D) MULTIPLE OFFENDERS.—If the Sec-  
4           retary determines that a facility has been per-  
5           sistently and substantially violating the deten-  
6           tion standards issued by the Secretary, includ-  
7           ing by scoring less than adequate or the equiva-  
8           lent median score in 2 consecutive inspections—

9                   (i) the Secretary shall terminate con-  
10                  tracts or agreements with such facilities  
11                  within 60 days; or

12                   (ii) in the case of facilities operated by  
13                  the Secretary, the Secretary shall close  
14                  such facilities within 90 days.

15       (e) REPORTING REQUIREMENTS.—

16           (1) OBJECTIVES.—Not later than June 30 of  
17           each year, the Secretary of Homeland Security shall  
18           submit a report to the Committee on the Judiciary  
19           of the Senate and the Committee on the Judiciary  
20           of the House of Representatives that describes the  
21           inspection and oversight activities at detention facili-  
22           ties.

23           (2) CONTENTS.—Each report submitted under  
24           paragraph (1) shall include—

1 (A) a description of each detention facility  
2 found to be in noncompliance with applicable  
3 detention standards issued by the Department  
4 of Homeland Security and other applicable reg-  
5 ulations;

6 (B) a description of the actions taken by  
7 the Department to remedy any findings of non-  
8 compliance or other identified problems, includ-  
9 ing financial penalties, contract or agreement  
10 termination, or facility closure; and

11 (C) information regarding whether the ac-  
12 tions described in subparagraph (B) resulted in  
13 compliance with applicable detention standards  
14 and regulations.

15 **SEC. 10. TERMINATION OF FAMILY DETENTION.**

16 Section 236 of the Immigration and Nationality Act  
17 (8 U.S.C. 1226) is amended by adding at the end the fol-  
18 lowing:

19 “(f) PROHIBITION ON DETENTION OF FAMILIES.—

20 “(1) PROHIBITION.—Notwithstanding any other  
21 provision of this Act and except as provided in para-  
22 graph (2), the Secretary of Homeland Security is  
23 prohibited from—

24 “(A) detaining a family unit under the au-  
25 thority of this section; or

1           “(B) separating a family unit whose mem-  
2           bers were apprehended together in order to de-  
3           tain a family member under this section.

4           “(2) EXCEPTION.—The Secretary of Homeland  
5           Security may detain alien parents who are—

6           “(A) shown through an individualized de-  
7           termination to pose a danger to the community  
8           which cannot be mitigated by other conditions  
9           of release; and

10           “(B) inadmissible under section 212(a)(3).

11           “(3) ALTERNATIVES TO DETENTION.—

12           “(A) IN GENERAL.—The Secretary of  
13           Homeland Security shall establish alternatives  
14           to detention programs for family units who are  
15           prohibited from being detained pursuant to  
16           paragraph (1).

17           “(B) EXCEPTION.—Alternatives to deten-  
18           tion programs may not be used if release on  
19           bond or recognizance is determined to be a suf-  
20           ficient measure to ensure appearances at immi-  
21           gration proceedings and public safety.”.

22 **SEC. 11. PRIVATE RIGHT OF ACTION.**

23           (a) IN GENERAL.—A person aggrieved of any viola-  
24           tion of this Act or an amendment made by this Act may



1 bring a civil action in an appropriate district court of the  
2 United States.

3 (b) RELIEF.—For a prevailing plaintiff in a civil ac-  
4 tion brought under subsection (a), the court—

5 (1) shall award damages in the amount equal to  
6 the greater of—

7 (A) the actual damages of the plaintiff; or

8 (B) \$1,000 for each violation of this Act or  
9 an amendment made by this Act; and

10 (2) may order injunctive relief.

○