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

IN THE SENATE OF THE UNITED STATES

Mr. SANDERS introduced the following bill; which was read twice and referred to the Committee on ________________

A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Justice is Not For Sale Act of 2015”.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term “core correctional services” means the housing, safeguarding, protecting, and dis-
cipling of individuals charged with or convicted of an offense;

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

(3) the term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or another commonwealth, territory, or possession of the United States.

SEC. 3. ELIMINATION OF FEDERAL CONTRACTS FOR PRIVATELY RUN PRISONS WITHIN 3 YEARS.

(a) DEFINITION.—In this section, the term “facility housing adult prisoners or detainees in the custody of the Federal Government” does not include a community correctional facility or the residence of an individual on home confinement, as described in section 3624(c) of title 18, United States Code.

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

(1) each facility housing adult prisoners or detainees in the custody of the Federal Government shall be under the direct, operational control of the Federal Government; and
(2) core correctional services at each such facility shall be performed by employees of the Federal Government.

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

SEC. 4. ELIMINATION OF STATE AND LOCAL CONTRACTS FOR PRIVATELY RUN PRISONS WITHIN 3 YEARS.

(a) DEFINITION.—In this section, the term “facility housing adult prisoners or detainees in the custody of a State or local government” does not include a community treatment center, halfway house, restitution center, mental health facility, alcohol or drug rehabilitation center, or other community facility that is not within the confines of a jail or prison.

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

(1) each facility housing adult prisoners or detainees in the custody of a State or local government
shall be under the direct, operational control of a State or local government; and

(2) core correctional services at each such facility shall be performed by employees of a State or local government.

(c) WAIVER AUTHORIZED.—If the Attorney General determines that a State or local government is unable to comply with subsection (b) by the date that is 2 years after the date of enactment of this Act, the Attorney General may waive the application of subsection (b) as to that State or local government for not more than 1 year.

SEC. 5. REINSTatement OF PAROLE.

(a) IN GENERAL.—Chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"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."
“Subchapter D—Parole

§ 3631. Definitions

“In this subchapter—

“(1) the term ‘Chairperson’ means the Chairperson of the Commission;

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

“(3) the term ‘Commissioner’ means any member of the Commission;

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

“(5) the term ‘eligible prisoner’ means any Federal prisoner who is eligible for parole under this title or any other law, including any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole;

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

“(7) the term ‘rules and regulations’ means rules and regulations promulgated by the Commission under section 3632 and section 553 of title 5.
§ 3632. Powers and duties of the Commission

(a) In General.—The Commission shall meet at least quarterly, and by majority vote shall—

(1) promulgate rules and regulations establishing guidelines for the powers enumerated in subsection (b) and such other rules and regulations as are necessary to carry out a national parole policy and the purposes of this subchapter;

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

(3) ratify, revise, or deny any request for regular, supplemental, or deficiency appropriations, before the submission of the requests to the Office of Management and Budget by the Chairperson, which requests shall be separate from those of any other agency in the Department of Justice.

(b) Powers Relating to Parole.—The Commission, by majority vote, and in accordance with the procedures set out in this subchapter, shall have the power to—

(1) grant or deny an application or recommendation to parole any eligible prisoner;

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

(3) modify or revoke an order paroling any eligible prisoner; and
“(4) request probation officers and other individuals, organizations, and public or private agencies to perform such duties with respect to any parolee as the Commission determines necessary—

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

“(B) so as to assure that no probation officers, individuals, organizations, or agencies shall bear excessive caseloads.

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

“(1) may delegate to 1 or more Commissioners powers enumerated in subsection (b);

“(2) may delegate to hearing examiners any powers necessary to conduct hearings and proceedings, take sworn testimony, obtain and make a record of pertinent information, make findings of probable cause and issue subpoenas for witnesses or evidence in parole revocation proceedings, and recommend disposition of any matters enumerated in subsection (b), except that any such findings or recommendations shall be based upon the concurrence of not less than 2 hearing examiners;

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

“(4) may review, or may delegate to the National Appeals Board the power to review, any decision made under paragraph (1), which shall be reaffirmed, modified, or reversed not later than 30 days after the date the decision is rendered; and

“(5) shall provide written notice to the individual to whom a decision described in paragraph (4) applies of the Commission’s actions with respect thereto and the reasons for such actions.

“(d) POLICYMAKING.—Except as otherwise provided by law, any action taken by the Commission under subsection (a) shall be taken by a majority vote of all individuals currently holding office as members of the Commission which shall maintain and make available for public inspection a record of the final vote of each member on statements of policy and interpretations adopted by it. In so acting, each Commissioner shall have equal responsibility and authority, shall have full access to all information relating to the performance of such duties and responsibilities, and shall have 1 vote.

§3633. Powers and duties of the Chairperson

“(a) IN GENERAL.—The Chairperson shall—
“(1) convene and preside at meetings of the Commission under section 3632 and such additional meetings of the Commission as the Chairperson may call or as may be requested in writing by at least 3 Commissioners;

“(2) appoint, fix the compensation of, assign, and supervise all personnel employed by the Commission except that—

“(A) the appointment of any hearing examiner shall be subject to approval of the Commission within the first year of such hearing examiner’s employment; and

“(B) regional Commissioners shall appoint and supervise such personnel employed regularly and full time in their respective regions as are compensated at a rate up to and including level GS–9 of the General Schedule;

“(3) assign duties among officers and employees of the Commission, including Commissioners, so as to balance the workload and provide for orderly administration;

“(4) direct the preparation of requests for appropriations for the Commission, and the use of funds made available to the Commission;
“(5) designate 3 Commissioners to serve on the National Appeals Board, 1 whom shall be designated to serve as Vice Chairperson of the Commission (who shall act as Chairperson of the Commission in the absence or disability of the Chairperson or in the event of a vacancy in the position of Chairperson);

“(6) designate, for each region established under section 3632(a)(2), 1 Commissioner to serve as regional Commissioner in each such region, except that—

“(A) in each such designation the Chairperson shall consider years of service, personal preference, and fitness; and

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

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

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

“(b) OTHER AUTHORITIES.—The Chairperson shall have the power to—
“(1) without regard to subsections (a) and (b) of section 3324 of title 31, enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission with any public agency or with any person, firm, association, corporation, educational institution, or nonprofit organization;

“(2) accept voluntary and uncompensated services, notwithstanding section 1342 of title 31;

“(3) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5;

“(4) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the parole process;

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

“(6) publish data concerning the parole process;

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

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

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

§ 3634. Time of eligibility for release on parole

“(a) ELIGIBILITY.—

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

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

“(B) a prisoner confined and serving a life
sentence shall be eligible for release on parole
after serving 10 years.
“(2) TERMS OF LESS THAN 1 YEAR.—Any prisoner sentenced to imprisonment for a term or terms of not less than 6 months, and not more than 1 year, shall be released at the expiration of such sentence, unless the court which imposed sentence shall, at the time of sentencing, provide for the prisoner’s release after service of 33.3 percent of such term or terms, which shall be deemed to be as if released on parole. This paragraph shall not prevent delivery of any person released on parole to the authorities of any State otherwise entitled to custody of the person.

“(b) DETERMINATIONS BY COURT.—Upon entering a judgment of conviction, the court having jurisdiction to impose sentence, when in its opinion the ends of justice and best interest of the public require that the defendant be sentenced to imprisonment for a term exceeding 1 year, may—

“(1) designate in the sentence of imprisonment imposed a minimum term at the expiration of which the defendant shall become eligible for parole, which term may not be more than 33.3 percent of the maximum sentence imposed by the court; or

“(2) fix the maximum sentence of imprisonment to be served by the defendant, in which event the
court may specify that the defendant may be released on parole at such time as the Commission may determine.

“(c) ADDITIONAL INFORMATION.—

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

“(2) REPORT AND RECOMMENDATIONS OF DIRECTOR.—Not later than 3 months after a defendant is committed under paragraph (1), unless the court grants additional time, not to exceed 3 months, for further study, the results of the study described in subsection (d), together with any recommendations which the Director believes would be helpful in determining the disposition of the case, shall be furnished to the court.

“(3) SENTENCING AFTER ADDITIONAL INFORMATION.—After receiving a report and recommendations under paragraph (2), the court may in its discretion—
“(A) place the offender on probation in accordance with subchapter A; or

“(B)(i)(I) affirm the sentence of imprisonment originally deemed to be imposed; or

“(II) reduce the sentence of imprisonment; and

“(ii) commit the offender under any applicable provision of law.

“(4) RUNNING OF TERM.—The term of a sentence imposed under paragraph (3) shall run from the date of original commitment under this subsection.

“(d) STUDY UPON COMMITMENT.—

“(1) IN GENERAL.—Upon commitment of a prisoner sentenced to imprisonment under subsection (a) or (b), the Director, under such regulations as the Attorney General may prescribe, shall cause a complete study to be made of the prisoner and shall furnish to the Commission a summary report together with any recommendations which in the opinion of the Director would be helpful in determining the suitability of the prisoner for parole.

“(2) CONTENTS.—A report under paragraph (1) may include—
“(A) data regarding the prisoner’s previous delinquency or criminal experience;

“(B) pertinent circumstances of the social background, capabilities, and mental and physical health of the prisoner; and

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

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

“(e) PROVISION OF INFORMATION.—Upon request of the Commission, it shall be the duty of the various probation officers and agencies of the Federal Government to furnish the Commission—

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

“(2) whenever not incompatible with the public interest, their views and recommendation with respect to any matter within the jurisdiction of the Commission.

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

“(g) Rule of Construction.—Nothing in this sub-
chapter shall be construed to provide that any prisoner
shall be eligible for release on parole if such prisoner is
ineligible for such release under any other provision of law.

§ 3635. Parole determination criteria

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

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

“(2) the Commission, upon consideration of the
nature and circumstances of the offense and the his-
tory and characteristics of the eligible prisoner, de-
termines that release would not—

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

“(B) jeopardize the public welfare.

“(b) Exception.—Notwithstanding the guidelines
promulgated by the Commission under section 3632, the
Commission may grant or deny release on parole if it de-
termines there is good cause for so doing.
“(c) NOTICE.—The Commission shall furnish an eligible prisoner with a written notice of its determination (including any determination described in subsection (b)) not later than 21 days, excluding holidays, after the date of the parole determination proceeding. If parole is denied, such notice shall state with particularity the reasons for such denial.

“(d) CERTAIN PRISONERS.—

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

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

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

“(i) the date described in subparagraph (A); or

“(ii) the date on which the prisoner has served 30 years.
“(2) EXCEPTION.—The Commission shall not release a prisoner under paragraph (1) if it determines that—

“(A) the prisoner has seriously or frequently violated institution rules and regulations; or

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

§ 3636. Information considered

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

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

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

“(3) presentence investigation reports;

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

“(5) reports of physical, mental, or psychiatric examination of the eligible prisoner; and
“(6) such additional relevant information concerning the eligible prisoner (including information submitted by the eligible prisoner) as may be reasonably available.

§ 3637. Parole determination proceeding; time

“(a) PROCEEDINGS.—

“(1) IN GENERAL.—In making a determination under this subchapter (relating to parole), the Commission shall conduct a parole determination proceeding unless it determines on the basis of the eligible prisoner’s record that the eligible prisoner will be released on parole.

“(2) TIMING.—

“(A) IN GENERAL.—Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole under subsection (a)(1) or (b)(1) of section 3634 shall be held not later than 30 days before the date of such eligibility for parole.

“(B) OTHER PROCEEDINGS.—Whenever feasible, the initial parole determination proceeding for a prisoner eligible for parole under section 3634(b)(2) or who was released on parole, and whose parole has been revoked, shall be held not later than 120 days following such
prisoner’s imprisonment or reimprisonment in a
Federal institution, as the case may be.

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

“(b) NOTICE.—

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

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

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

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

“(c) WITHHOLDING OF CERTAIN MATERIALS.—

“(1) IN GENERAL.—Subsection (b)(1)(B) shall
not apply to—
“(A) diagnostic opinions which, if made known to the eligible prisoner, could lead to a serious disruption of the institutional program;

“(B) any document which reveals sources of information obtained upon a promise of confidentiality; or

“(C) any other information which, if disclosed, might result in harm, physical or otherwise, to any person.

“(2) SUMMARIES.—If access to a report or other document is not provided by the Commission, the Bureau of Prisons, or any other agency under paragraph (1), the Commission, the Bureau, or such other agency, respectively, shall provide to the eligible prisoner a summary of the basic contents of the material withheld, bearing in mind the need for confidentiality and the impact on the eligible prisoner.

“(d) CONSULTATION AND REPRESENTATION.—

“(1) IN GENERAL.—During the period before a parole determination proceeding described in subsection (b)(1), an eligible prisoner may consult, as provided by the Director, with a representative as referred to in paragraph (2), and by mail or otherwise with any person concerning such proceeding.
“(2) Representation at proceeding.—An eligible prisoner shall, if the eligible prisoner chooses, be represented at the parole determination proceeding by a representative who qualifies under rules promulgated by the Commission. Such rules shall not exclude attorneys as a class.

“(e) Testimony by eligible prisoner.—An eligible prisoner shall be allowed to appear and testify on his or her own behalf at the parole determination proceeding.

“(f) Records.—A full and complete record of every parole determination proceeding shall be retained by the Commission. Upon request, the Commission shall make available to any eligible prisoner such record as the Commission may retain of the parole determination proceeding.

“(g) Conference if denied.—If parole is denied, and if feasible—

“(1) a personal conference to explain the reasons for the denial shall be held between the eligible prisoner and the Commissioners or examiners conducting the proceeding at the conclusion of the proceeding; and

“(2) the conference shall include advice to the eligible prisoner as to what steps may be taken to
enhance the chance of being released at a subsequent proceeding.

“(h) SUBSEQUENT PROCEEDINGS IF DENIED.—In any case in which release on parole is not granted, subsequent parole determination proceedings shall be held not less frequently than every—

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

“(2) 24 months in the case of an eligible prisoner serving a term or terms of imprisonment of not less than 7 years.

§ 3638. Conditions of parole

“(a) CONDITIONS.—

“(1) NO OTHER CRIMES.—In every case, the Commission shall impose as a condition of parole that the parolee not commit another Federal, State, or local crime.

“(2) OTHER CONDITIONS.—The Commission—

“(A) may impose or modify other conditions of parole to the extent that such conditions are reasonably related to—

“(i) the nature and circumstances of the offense; and
“(ii) the history and characteristics of
the parolee; and
“(B) may provide for such supervision and
other limitations as are reasonable to protect
the public welfare.
“(b) Scope of Conditions.—
“(1) In general.—The conditions of parole
should be sufficiently specific to serve as a guide to
supervision and conduct.
“(2) Certificate.—Upon release on parole, a
parolee shall be given a certificate setting forth the
conditions of parole. An effort shall be made to
make certain that the parolee understands the condi-
tions of parole.
“(c) Treatment.—
“(1) In general.—Release on parole or re-
lease as if on parole may as a condition of such re-
lease require—
“(A) a parolee to reside in or participate in
the program of a residential community treat-
ment center, or both, for all or part of the pe-
riod of such parole; and
“(B) a parolee who is an addict (as defined
under section 102 of the Controlled Substances
Act (21 U.S.C. 802) or a drug dependent per-
son (as defined in section 2 of the Public Health Service Act (42 U.S.C. 201)) to undergo available medical, psychiatric, or psychological treatment for drug or alcohol dependency for all or part of the period of parole.

“(2) Costs.—A parolee residing in a residential community treatment center pursuant to paragraph (1) may be required to pay such costs incident to residence as the Commission determines appropriate.

“(d) Modification of Conditions.—

“(1) In General.—The Commission may modify conditions of parole under this section on its own motion, or on the motion of a United States probation officer supervising a parolee.

“(2) Notice Required.—A parolee shall receive notice of a proposed modification of conditions of parol and a period of not less than 10 days after receipt of such notice to express the views of the parolee on the proposed modification.

“(3) Period for Determination.—Not later than 21 days after the end of the 10-day period described in paragraph (2), the Commission shall act upon a motion or application to modify conditions of parole.
“(4) Petition by Parolee.—A parolee may petition the Commission for a modification of conditions under this section.

“(5) Relation to Revocation Proceedings.—This subsection shall not apply to modifications of parole conditions under a revocation proceeding under section 3643.

§ 3639. Jurisdiction of Commission

“(a) Attorney General Jurisdiction.—A parolee shall remain in the legal custody and under the control of the Attorney General, until the expiration of the maximum term or terms of imprisonment to which such parolee was sentenced.

“(b) Jurisdiction of Commission Generally.—Except as otherwise provided in this section, the jurisdiction of the Commission over the parolee shall terminate not later than the date of the expiration of the maximum term or terms for which the parolee was sentenced, except that—

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

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

“(c) INTENTIONAL FAILURE OR REFUSAL.—If a pa-
rolee intentionally refuses or fails to respond to any rea-
sonable request, order, summons, or warrant of the Com-
mission or any member or agent thereof, the jurisdiction of the Commission may be extended for the period during which the parolee so refuses or fails to respond.

“(d) OTHER SENTENCES.—The parole of any parolee shall run concurrently with the period of parole or proba-
tion under any other Federal, State, or local sentence. Upon the termination of the jurisdiction of the Commiss-
ion over any parolee, the Commission shall issue a certifi-
cate of discharge to the parolee and to such other agencies as it may determine.
§ 3640. Early termination of parole

(a) IN GENERAL.—Upon its own motion or upon request of the parolee, the Commission may terminate supervision over a parolee prior to the termination of jurisdiction under section 3639.

(b) STATUS REVIEWS.—

(1) IN GENERAL.—Not later than 2 years after a parolee is released on parole, and every year thereafter, the Commission shall review the status of the parolee to determine the need for continued supervision.

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

(c) TERMINATION AFTER 5 YEARS.—

(1) IN GENERAL.—Five years after a parolee is released on parole, the Commission shall terminate supervision over the parolee unless the Commission determines, after a hearing conducted in accordance with the procedures prescribed in section 3643(a)(2), that such supervision should not be terminated because there is a likelihood that the pa-
rolee will engaged in conduct violating any criminal law.

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

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

“§3641. Aliens

“(a) ELIGIBILITY OF PAROLE FOR ALIENS.—Notwithstanding any other provision of law, aliens shall be eligible for parole under this title.

“(b) ALIENS WITH FINAL ORDERS OF REMOVAL.—When an alien prisoner subject to a final order of removal becomes eligible for parole, the Commission may authorize the release of such prisoner and, when parole becomes effective, may deliver such prisoner to a duly authorized immigration official for removal.
§ 3642. Summons to appear or warrant for retaking of parolee

“(a) In general.—If a parolee is alleged to have violated the conditions of parole, the Commission may—

“(1) summon such parolee to appear at a hearing conducted under section 3643; or

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

“(b) Issuance of summons or warrant.—

“(1) In general.—A summons or warrant issued under this section shall be issued by the Commission as soon as practicable after discovery of the alleged violation, except when delay is determined necessary.

“(2) Imprisonment.—Imprisonment in an institution shall not constitute grounds for delay of such issuance, except that, in the case of any parolee charged with a criminal offense, issuance of a summons or warrant may be suspended pending disposition of the charge.

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

“(1) the conditions of parole imposed under section 3638 that the parolee is alleged to have violated;
“(2) the rights of the parolee under this sub-
chapter; and
“(3) the possible action which may be taken by
the Commission.
“(d) EXECUTION OF WARRANTS.—An officer of a
Federal penal or correctional institution, or a Federal offi-
cer authorized to serve criminal process within the United
States, to whom a warrant issued under this section is
delivered, shall execute such warrant by taking such pa-
rolee and returning the parolee to the custody of the re-
gional commissioner, or to the custody of the Attorney
General, if the Commission shall so direct.

“§ 3643. Revocation of parole
“(a) REVOCATION GENERALLY.—
“(1) IN GENERAL.—Except as provided in sub-
sections (b) and (e)—
“(A) an alleged parole violator summoned
or retaken under section 3642 shall be afforded
the opportunity to have a preliminary hearing
at or reasonably near the place of the alleged
parole violation or arrest, without unnecessary
delay, to determine if there is probable cause to
believe that the parolee has violated a condition
of parole;
“(B) upon a finding of probable cause, and except as provided in subparagraph (C)—

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

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

“(C) the Commission may restore any parolee to parole supervision if—

“(i) continuation of revocation proceedings is not warranted;

“(ii) incarceration of the parolee pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations;

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

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

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

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

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

“(B) the parolee shall have an opportunity
to be represented by an attorney (retained by
the parolee, or if the parolee is financially un-
able to retain counsel, counsel shall be provided
under section 3006A) or, if the parolee so
chooses, a representative as provided by rules
and regulations, unless the parolee knowingly
and intelligently waives such representation;

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

“(D) the parolee shall have an opportunity
to be apprised of the evidence against the pa-
rolee and, if the parolee so requests, to confront
and cross-examine adverse witnesses, unless the
Commission specifically finds substantial reason
for not so allowing.
“(3) Subpoenas.—For purposes of paragraph (1), the Commission may subpoena witnesses and evidence, and pay witness fees as established for the courts of the United States. If a person refuses to obey such a subpoena, the Commission may petition a court of the United States for the judicial district in which such parole proceeding is being conducted, or in which such person may be found, to request such person to attend, testify, and produce evidence. The court may issue an order requiring such person to appear before the Commission, when the court finds such information, thing, or testimony directly related to a matter with respect to which the Commission is empowered to make a determination under this section. Failure to obey such an order is punishable by such court as a contempt. All process in such a case may be served in the judicial district in which such a parole proceeding is being conducted, or in which such person may be found.

“(b) Conviction of Crimes While on Parole.—

“(1) In general.—Conviction for a Federal, State, or local crime committed subsequent to release on parole shall constitute probable cause for purposes of subsection (a).
“(2) Parolees Incarcerated.—If a parolee has been convicted of a Federal, State, or local crime and is serving a new sentence in an institution, a parole revocation warrant or summons issued under section 3642 may be placed against the parolee as a detainer. Not later than 180 days after the Commission receives notice of the placement of a detainer, the detainer shall be reviewed by the Commission. The parolee shall receive notice of the pending review, have an opportunity to submit a written application containing information relative to the disposition of the detainer, and, unless waived, shall have counsel as provided in subsection (a)(2)(B) to assist in the preparation of such application.

“(3) Hearing.—If the Commission determines that additional information is needed to review a detainer under paragraph (2), a dispositional hearing may be held at the institution in which the parolee is confined. The parolee shall receive notice of such hearing, be allowed to appear and testify on his or her own behalf, and, unless waived, shall have counsel as provided in subsection (a)(2)(B).
“(4) Resolution.—Following the review relating to the disposition of a detainer, the Commission may—

“(A) let the detainer stand; or

“(B) withdraw the detainer.

“(c) Certain Alleged Parole Violators.—

“(1) Revocation Hearing.—

“(A) In general.—An alleged parole violator described in subparagraph (B) shall receive a revocation hearing within 90 days of the date of retaking.

“(B) Covered Alleged Parole Violators.—An alleged parole violator described in this subparagraph is an alleged parole violator who—

“(i) is summoned or retaken by warrant under section 3642 and knowingly and intelligently waives the right to a hearing under subsection (a);

“(ii) knowingly and intelligently admits violation at a preliminary hearing held under subsection (a)(1)(A); or

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

“(C) Conduct of Hearing.—The Commission may conduct a hearing under subpara-
graph (A) at the institution to which the parolee has been returned, and the alleged parole violator shall receive notice of the hearing, be allowed to appear and testify on his or her own behalf, and, unless waived, shall have counsel or another representative as provided in subsection (a)(2)(B).

“(d) DISPOSITION.—

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

“(A) restore the parolee to supervision;

“(B) reprimand the parolee;

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

“(D) refer the parolee to a residential community treatment center for all or part of the remainder of the original sentence; or

“(E) formally revoke parole or release as if on parole under this title.
“(2) Requirements.—The Commission may take an action under paragraph (1) if it has taken into consideration—

“(A) whether the parolee has been convicted of any Federal, State, or local crime subsequent to release on parole, and the seriousness thereof; and

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

“(e) Notice.—Not later than 21 days, excluding holidays, after a revocation hearing under this section, the Commission shall furnish the parolee with a written notice of its determination. If parole is revoked, a digest shall be prepared by the Commission setting forth in writing the factors considered and reasons for such action, a copy of which shall be given to the parolee.

“§ 3644. Reconsideration and appeal

“(a) In General.—If parole release is denied under section 3635, parole conditions are imposed or modified under section 3638, parole discharge is denied under section 3640(c), or parole is modified or revoked under section 3643, the individual to whom such decision applies may have the decision reconsidered by submitting a writ-
ten application to the regional Commissioner not later than 30 days after the date on which the decision is rendered.

“(b) Review by Regional Commissioner.—Not later than 30 days after receipt of an application under subsection (a), a regional Commissioner shall—

“(1) acting in accordance with rules and regulations, reaffirm, modify, or reverse the original decision; and

“(2) inform the applicant in writing of the decision and the reasons therefor.

“(c) Appeal to National Appeals Board.—

“(1) In General.—Any decision made under subsection (b) which is adverse to the applicant for reconsideration may be appealed by the individual to the National Appeals Board by submitting a written notice of appeal not later than 30 days following the date on which such decision is rendered.

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

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

“(B) shall inform the appellant in writing of the decision and the reasons therefor.
§ 3645. Young adult offenders

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

(1) who has been convicted of a Federal offense; and

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

(b) TREATMENT AS A JUVENILE.—A young adult offender may be deemed a juvenile for purposes of chapter 403 if, after taking into consideration the previous record of the young adult offender as to delinquency or criminal experience, the social background, capabilities, mental and physical health of the young adult offender, and such other factors as may be considered pertinent, the court finds that there are reasonable grounds to believe that the young adult offender will benefit from being treated as a juvenile under chapter 403.

§ 3646. Applicability of Administrative Procedure Act

(a) IN GENERAL.—The Commission shall be an agency for purposes of chapter 5 of title 5, except for sections 554, 555, 556, and 557.

(b) RULEMAKING.—For purposes of subsection (a), section 553(b)(3)(A) of title 5 shall be applied as though ‘, general statements of policy,’ were struck.
“(c) Judicial Review.—To the extent that actions of the Commission under section 3632(a)(1) are not in accord with section 553 of title 5, they shall be reviewable in accordance with chapter 7 of title 5.

“(d) Exclusion of Certain Actions.—Actions of the Commission under paragraphs (1), (2), and (3) of section 3632(b) shall be considered actions committed to agency discretion for purposes of section 701(a)(2) of title 5.”.

(b) Permanent Continuation of Parole Commission.—Notwithstanding section 235(b) of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 note), the United States Parole Commission shall not be terminated under such section and appointments to the United States Parole Commission shall be made in accordance with section 4202 of title 18, United States Code, as in effect on the day before the effective date of the Sentencing Reform Act of 1984 under section 235(a) of such Act (18 U.S.C. 3551 note).

(e) Credit Toward Service of Sentence for Satisfactory Behavior.—Section 3624(b) of title 18, United States Code, is amended by adding at the end the following:

“(5) A prisoner having served the term or terms of imprisonment of the prisoner, less credit to-
ward the service of the prisoner’s sentence under this subsection, shall, upon release, be deemed as if released on parole until the expiration of the maximum term or terms for which the prisoner was sentenced less 180 days. This paragraph shall not prevent delivery of a prisoner to the authorities of any State otherwise entitled to custody of the prisoner.”.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

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

(A) in subsection (b), by inserting “maximum” before “sentence of the kind” each place it appears; and

(B) in subsection (c), in the matter preceding paragraph (1), by inserting “maximum” before “sentence—”.

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

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

(A) in subsection (a), by striking “A prisoner” and inserting “Subject to release on parole under subchapter D, a prisoner”;

25
(B) in subsection (b)(2), by inserting “,
which shall not include a release on parole
under subchapter D” after “released from cus-
tody”; and

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

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

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

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

“§ 5041. Parole

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

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

“5041. Parole.”.

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

“D. Parole ........................................................................................................ 3631”.

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

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

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

(ii) in subparagraph (B), in the matter following clause (viii), by striking the last sentence; and

(iii) in subparagraph (C), in the last sentence, by striking “, nor shall a person so sentenced be eligible for parole during the term of such a sentence”;

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

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

(8) Section 1010(b) of the Controlled Sub-
stances Import and Export Act (21 U.S.C. 960(b)) is amended—
(A) in paragraph (1), in the matter following subparagraph (H), by striking the last sentence; and

(B) in paragraph (2), in the matter following subparagraph (H), by striking the last sentence; and

(e) APPLICABILITY.—The amendments made by this section shall apply with respect to any sentence imposed on or after January 1, 2017.

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

(a) DEFINITIONS.—In this section—

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

(2) the term “correctional facility” means a jail, prison, or other detention facility used to house people who have been arrested, detained, held, or convicted by a criminal justice agency or a court;

(3) the term “covered inmate” means—

(A) an individual who is being held, detained, or incarcerated in a correctional facility; and

(B) an individual who is being held in an immigration detention facility;
(4) the term “covered provider” means a provider of a service, including a money transfer service, that—

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

(B) provides a payment to a covered inmate who is being released from a correctional facility or an immigration detention facility; or

(C) provides a payment on behalf of a covered inmate; and

(5) the term “immigration detention facility” means a Federal, State, or local government facility, or a privately owned and operated facility, that is used, in whole or in part, to hold individuals under the authority of the Director of U.S. Immigration and Customs Enforcement, including facilities that hold such individuals under a contract or agreement with the Department of Homeland Security.

(b) Reasonable and Proportional Fee or Charge.—The amount of any fee or charge that a covered provider may impose with respect to a service described in subparagraph (A), (B), or (C) of subsection (a)(4) shall be reasonable and proportional to the relative cost or value of the service.
(c) Requirement to Issue Regulations.—

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

(2) Considerations.—In issuing the final rules under paragraph (1), the Bureau shall consider—

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

(B) whether those alternatives can reasonably be considered comparable;

(C) differing cost structures for transferring funds into correctional facilities and immigration detention facilities; and

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

(3) Differentiation permitted.—In issuing the final rules under paragraph (1), the Bureau may establish different standards for different types of fees and charges, as appropriate.
SEC. 7. RESTRICTIONS ON THE PROVISION OF INMATE TELEPHONE AND VIDEO SERVICE.

(a) DEFINITIONS.—Section 226(a) of the Communications Act of 1934 (47 U.S.C. 226(a)) is amended by adding at the end the following:

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

“(11) The term ‘collect’ or ‘collect call’ means a telephone call or video call from a person incarcerated in a correctional institution that is billed to the subscriber receiving the call.

“(12) The term ‘commission’ means a fee or other payment by a provider of inmate telephone and video service to an administrator of a correctional institution, department of correction, or similar entity, based upon, or partly upon, inmate telephone and video service revenue.

“(13) The term ‘debit account’ means the payment of inmate telephone and video service through a prepaid card or other account of a prisoner, which can be accessed only through an access code, personal identification number, or similar identifier.

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

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

(b) REGULATIONS.—Section 226 of the Communications Act of 1934 (47 U.S.C. 226) is further amended—

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

(2) by inserting after subsection (h) the following:

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

“(1) IN GENERAL.—In order to ensure that charges for inmate telephone and video service are just, reasonable, and nondiscriminatory, not later than 1 year after the date of enactment of the Justice is Not For Sale Act of 2015, the Commission
shall adopt regulations on the use of inmate telephone and video service that—

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

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

“(C) prescribe variable maximum compensation rates depending on such factors as carrier costs, the size of the correctional facility served, and other relevant factors identified by the Commission;

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

“(E) address the payment of commissions by providers of inmate telephone and video service to administrators of correctional institutions, departments of correction, and similar entities by—

“(i) prohibiting such payments; or

“(ii) limiting commission payments;

“(F) require administrators of correctional institutions, departments of correction, and similar entities to allow more than 1 provider of inmate telephone and video service to provide
inmate telephone and video service at a correctional institution so that prisoners have a choice of such providers; and

“(G) prohibit or substantially limit any ancillary fees imposed by a provider of inmate telephone and video service on a user of the service.

“(2) Scope.—

“(A) In general.—The regulations adopted by the Commission under this subsection—

“(i) shall be technologically neutral; and

“(ii) shall not jeopardize legitimate security and penological interests.

“(B) Impact on revenue.—To the extent the regulations adopted by the Commission under this subsection reduce or eliminate the revenue derived by administrators of correctional institutions, departments of correction, and similar entities from the receipt of commissions, such effects of the regulations shall not be considered to be jeopardizing or otherwise affecting legitimate security or penological interests.
“(3) Periodic Review.—The Commission shall review, on a biennial basis, the regulations adopted under this subsection, including to determine whether any compensation rates established by the Commission should be modified.

“(4) State Preemption.—To the extent that any State, local government, or private correctional facility requirements are inconsistent with the regulations of the Commission affecting or pertaining to inmate telephone and video service, including restrictions on the payment of commissions based upon inmate telephone and video service revenues or earnings, the regulations of the Commission on such matters shall preempt the State, local government, or private correctional facility requirements.

“(j) Inmate Telephone and Video Service Fully Subject to Sections 201, 205, 251, 252, and 276.—

“(1) In General.—Inmate telephone and video service shall be fully subject to the requirements of sections 201, 205, 251, 252, and 276.

“(2) Restriction.—A provider of inmate telephone and video service may not block or otherwise refuse to carry a call placed by an incarcerated person on the grounds that the provider has no contrac-
tual or other arrangement with the local exchange
carrier serving the intended recipient of the call or
other common carrier involved in any portion of the
transmission of the call.”.

SEC. 8. TERMINATION OF DETENTION BED QUOTA.

(a) In General.—Title II of the Department of
Homeland Security Appropriations Act, 2015 (Public Law
114–4) is amended, under the heading “UNITED STATES
IMMIGRATION AND CUSTOMS ENFORCEMENT”, by striking
“Provided further, That funding made available under this
heading shall maintain a level of not less than 34,000 de-
tention beds through September 30, 2015:”.

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

(c) Alternatives to Detention.—

(1) In General.—The Secretary of Homeland
Security shall establish nationwide alternatives to
detention programs that incorporate case manage-
ment services in each field office of the Department
of Homeland Security to ensure appearances at im-
migration proceedings and public safety.
(2) CONTRACT AUTHORITY.—The Secretary may contract with nongovernmental community-based organizations—

(A) to conduct screening of detainees;

(B) to operate community-based supervision programs; and

(C) to implement secure alternatives that allow U.S. Immigration and Customs Enforcement to maintain custody over the alien.

(3) ASSESSMENTS.—The Secretary shall regularly assess the demand for alternative to detention programs and make available sufficient alternative to detention slots regardless of proximity to available detention beds. Alternative programs shall offer a continuum of supervision mechanisms and options, including community support, depending on an assessment of each individual’s circumstances. Information regarding the amount of slots available in each area shall be made public.

(4) INDIVIDUALIZED DETERMINATIONS.—In determining whether to use alternatives to detention programs, the Secretary shall make an individualized determination, and for each individual placed in an alternatives to detention program, shall review the level of supervision on a monthly basis. Alternatives
to detention programs shall not be used when release on bond or recognizance is determined to be a sufficient measure to ensure appearances at immigration proceedings and public safety. Detention shall not be used when alternatives to detention programs are determined to be a sufficient measure to ensure appearances at immigration proceedings and public safety.

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

(6) VULNERABLE POPULATIONS.—

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

(B) CONSIDERATIONS FOR PLACEMENT.—

In determining whether to place a detainee in an alternatives to detention program, the Secretary shall consider whether the detainee is a member of a vulnerable population. Notwithstanding section 236 of the Immigration and Nationality Act (8 U.S.C. 1226), a member of a vulnerable population whose needs cannot be adequately met by a detention facility may not be held in a detention facility unless the Secretary determines such placement is in the interest of national security.

SEC. 9. OVERSIGHT OF DETENTION FACILITIES.

(a) DEFINITIONS.—In this section:

(1) APPLICABLE STANDARDS.—The term “applicable standards” means the most recent version of detention standards and detention-related policies issued by the Secretary or the Director of U.S. Immigration and Customs Enforcement.

(2) DETENTION FACILITY.—The term “detention facility” means a Federal, State, or local government facility, or a privately owned and operated facility, that is used, in whole or in part, to hold in-
individuals under the authority of the Director of U.S. Immigration and Customs Enforcement, including facilities that hold such individuals under a contract or agreement with the Department of Homeland Security.

(b) DETENTION REQUIREMENTS.—The Secretary of Homeland Security shall ensure that all persons detained pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) are treated humanely and benefit from the protections set forth in this section.

(c) OVERSIGHT REQUIREMENTS.—

(1) ANNUAL INSPECTION.—All detention facilities housing aliens in the custody of the Department of Homeland Security shall be inspected, for compliance with applicable detention standards issued by the Secretary and other applicable regulations, by—

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

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

(2) ROUTINE OVERSIGHT.—In addition to the inspections required under paragraph (1), the Secretary shall conduct routine oversight of the detention facilities described in paragraph (1), including unannounced inspections.
(3) AVAILABILITY OF RECORDS.—All detention facility contracts, memoranda of agreement, audits, inspections, evaluations and reviews, include those conducted by the Office for Civil Rights and Civil Liberties and the Office of Inspector General of the Department of Homeland Security, shall be considered records for purposes of section 552(f)(2) of title 5, United States Code.

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

(d) COMPLIANCE MECHANISMS.—

(1) AGREEMENTS.—

(A) NEW AGREEMENTS.—Compliance with applicable standards of the Secretary of Homeland Security and all applicable regulations, and meaningful financial penalties for failure to comply, shall be a material term in any new contract, memorandum of agreement, or any renegotiation, modification, or renewal of an existing contract or agreement, including fee negotiations, executed with detention facilities.

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

(C) CANCELLATION OF AGREEMENTS.—
Unless the Secretary provides a reasonable ex-
tension to a specific detention facility that is
negotiating in good faith, contracts or agree-
ments with detention facilities that are not
modified within 1 year of the date of the enact-
ment of this Act will be cancelled.

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

(2) FINANCIAL PENALTIES.—
(A) REQUIREMENT TO IMPOSE.—Subject
to subparagraph (C), the Secretary shall impose
meaningful financial penalties upon facilities
that fail to comply with applicable detention
standards issued by the Secretary and other ap-
pllicable regulations.
(B) TIMING OF IMPOSITION.—Financial penalties imposed under subparagraph (A) shall be imposed immediately after a facility fails to achieve an adequate or the equivalent median score in any performance evaluation.

(C) WAIVER.—The requirements of subparagraph (A) may be waived if the facility corrects the noted deficiencies and receives an adequate score in not more than 90 days.

(D) MULTIPLE OFFENDERS.—If the Secretary determines that a facility has been persistently and substantially violated the detention standards issued by the Secretary, including by scoring less than adequate or the equivalent median score in 2 consecutive inspections—

(i) the Secretary shall terminate contracts or agreements with such facilities within 60 days; or

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

(e) REPORTING REQUIREMENTS.—

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

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

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

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

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

SEC. 10. TERMINATION OF FAMILY DETENTION.

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

“(f) PROHIBITION ON DETENTION OF FAMILIES.—
“(1) PROHIBITION.—Notwithstanding any other provision of this Act and except as provided in paragraph (2), the Secretary of Homeland Security is prohibited from—

“(A) detaining a family unit under the authority of this section; or

“(B) separating a family unit whose members were apprehended together in order to detain a family member under this section.

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

“(A) shown through an individualized determination to pose a danger to the community which cannot be mitigated by other conditions of release; and

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

“(3) ALTERNATIVES TO DETENTION.—

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

“(B) EXCEPTION.—Alternatives to detention programs may not be used if release on bond or recognizance is determined to be a suf-
efficient measure to ensure appearances at immigration proceedings and public safety.”.