

Section-by-Section Summary
The CORRECTIONS Act (S. 467)
Senators John Cornyn (R-TX) and Sheldon Whitehouse (D-RI)

Section 1. Short Title: This Act may be cited as the “Corrections Oversight, Recidivism Reduction, and Eliminating Costs for Taxpayers In Our National System Act of 2015” or the “CORRECTIONS Act”.

Section 2. Recidivism Reduction Programming and Productive Activities: Requires the Attorney General to review current recidivism reduction programming and submit a strategy for expanding programming to all eligible inmates in Bureau of Prisons custody within six years, and to identify products currently produced overseas that could be manufactured in BOP facilities without reducing job opportunities for American workers. These studies must be completed within one year.

Requires BOP to make appropriate recidivism reduction programming available to all eligible prisoners within six years. The National Institute of Corrections is required to certify that the programming offered by BOP is evidence-based and effective.

Within 18 month, BOP is required to issue regulations so that each facility enters into partnerships, including partnerships with faith- and community-based groups, to expand recidivism reduction programming.

BOP is directed to use the Post-Sentencing Risk and Needs Assessment System (created by Section 3 of the bill) to assign prisoners to recidivism reduction programming and productive activities, which include prison jobs. In so doing, BOP shall separate inmates of different risk classifications as much as practicable, and ensure that all prisoners participate in recidivism reduction programming, to include prison jobs.

Requires BOP to allow individuals who provide mentoring services to prisoners to continue to provide such services after the prisoner is transferred to prerelease custody, unless the relevant BOP official provides written notice that doing so would represent a security risk.

As an incentive for successfully completing recidivism reduction program, eligible inmates may receive time credit of up to five days for each period of 30 days of programming that they successfully complete. Inmates classified as low risk may receive an additional credit of up to five days for each period of 30 days of program completion. No time credit is available for programming completed prior to the bill’s enactment or during the period prior to the commencement of the inmate’s sentence.

Inmates serving sentences for a second of subsequent federal offense and those in Criminal History Category VI under the sentencing guidelines are ineligible for time credits. Inmates serving sentences for the following categories of offenses are excluded from earning credit: crimes of terrorism, crimes of violence, sex offenses, violations of the RICO statute, engaging in a continuing criminal enterprise under 21 U.S.C. § 848 (the drug kingpin statute), and crimes

involving child exploitation. The Sentencing Commission is required to prepare and update a list of all excluded offenses.

BOP is required to develop policies to provide incentives other than time credit to encourage inmates, including excluded inmates, to complete recidivism reduction programming. BOP is authorized to reduce credits a prison has previously earned for certain rule violations. Inmates are to be awarded time credits for completion of programming independent of any other rewards or incentives received, unless the inmate has previously earned time credits for the programming under another provision of law.

Defines “successful completion” to require the inmate to regularly attend and participate in the program, regularly complete tasks allowing the inmate to receive the benefits of the program, and refrain from regularly engaging in disruptive behavior, for a period of at least 30 days. Allows inmates to earn time credits for ongoing programs.

Defines “eligible prisoner” to include all federal prisoners, with the exception of those unable to participate in recidivism reduction programming for medical or security reasons or those serving sentences of less than one month.

Defines “productive activity” as any activity, including holding a job or the delivery of programming to other inmates, that allows lower risk individuals to maintain their risk classification.

Defines “recidivism reduction program” as any activity that has been certified to reduce recidivism or promote successful reentry, which may include classes on social learning and life skills; classes on morals or ethics; academic classes; cognitive behavioral treatment; mentoring; occupational and vocational training; faith-based classes or services; domestic violence education and deterrence programming; victim-impact classes or other restorative justice programs; and a prison job, and which shall include productive activities and recovery programming.

Defines “recovery programming” to mean programming, other than BOP’s existing Residential Drug Abuse Program, that has been shown to reduce drug or alcohol dependence or promote recovery, to include appropriate medication-assisted treatment.

Section 3: Post-Sentencing Risk and Needs Assessment System: The Attorney General is required to develop a risk and needs assessment system, to be called the “Post-Sentencing Risk and Needs Assessment System,” which will determine the recidivism risk of all federal inmates and classify inmates as having a high, moderate, or low risk of recidivism. The assessment system must also identify each inmate’s programmatic needs and identify appropriate programming. The system shall be developed within 30 months of the bill’s enactment.

In addition to assessing each inmate’s risk of recidivism, the system shall, to the extent practicable, assess each inmate’s risk of violence and shall ensure that, to the extent practicable, low-risk inmates are grouped together in housing and programming activities. The system shall also assign to each prisoner appropriate recidivism reduction programming based on the specific

needs of the prisoner and shall reassess and update the risk level and programmatic needs of each prisoner on a periodic basis. In developing the system, the Attorney General shall rely on available research and consult with academic and other criminal justice experts in developing the system.

The system must measure indicators of progress such that each inmate (other than those already classified as low risk) has a meaningful opportunity to progress to a lower risk level during the time of the inmate's incarceration through changes in dynamic risk factors, and that each inmate on prerelease custody (other than those already classified as low risk) has a meaningful opportunity to progress to a lower risk classification through changes in dynamic risk factors. In developing the system, the Attorney General shall develop both an intake assessment tool and a reassessment tool. The Attorney General is permitted to use existing risk and needs assessment tools, and shall statistically validate the tools on the federal prison population.

During the transition period, BOP may use its existing Inmate Classification System or an existing risk assessment system for the purposes of classifying inmates. BOP may incorporate the risk assessment system into its existing Inmate Classification System.

BOP is required to conduct initial assessments within 30 months of the development of the system. Inmates to be released within three years must be reassessed at least annually; inmates to be released within 10 years must be reassessed at least once every two years; and other inmates must be reassessed at least once every three years.

The Attorney General is required to develop training protocols for BOP employees responsible for implementing the system, and shall monitor and assess the system, including through periodic audits. There is no right of review of determinations made by the system, other than for constitutional claims.

Defines "dynamic risk factor" as any characteristic relevant to risk of recidivism that can be modified based on a prisoner's actions, behaviors, or attitudes, including through completion of appropriate programming, in a prison setting.

Defines "recidivism risk" as the likelihood that a prisoner will commit additional crimes for which the prisoner could be prosecuted in a federal, State, or local court in the United States.

Section 4. Prerelease Custody: Allows prisoners to serve an amount of time equal to the credit they have earned for recidivism reduction programming in prerelease custody, provided that the prisoner's most recent risk assessment, conducted within one year of the prisoner's release date, determined that the prisoner was low or moderate risk and, if moderate risk, that the prisoner's risk of recidivism has declined.

Provides that a prisoner permitted to spend a portion of the prisoner's sentence in prerelease custody as a result of completing recidivism reduction programming may spend such time in a residential reentry center, on home confinement, or on community supervision. Inmates placed in home confinement under this provision shall be subject to 24-hour electronic monitoring and be required to remain in their residence, with exceptions for employment and other specified

activities. Alternative means of monitoring are permitted under certain circumstances, and BOP may modify the conditions of a prisoner's home confinement for compelling reasons if the prisoner's record demonstrates exemplary compliance with those conditions.

Prisoners classified as low risk (or those who subsequently become classified as low risk) are eligible to serve a portion of their prerelease custody in community supervision. Inmates with less than 36 months of credit may spend no more than one-half of the amount of such credit in community supervision; inmates with more than 36 months of credit may spend the amount of such credit exceeding 18 months in community supervision. Inmates placed on community supervision shall be subject to such conditions as BOP deems appropriate, and shall remain current on all financial obligations imposed as part of the prisoner's sentence and refrain from committing any further crimes.

BOP may revoke a prisoner's prerelease custody and require the prisoner to serve the remainder of the prisoner's term of incarceration in prison, or impose additional terms of such custody, if the prisoner violates the conditions of such prisoner's prerelease custody. BOP shall revoke the prisoner's prerelease custody for non-technical violations.

Any term of supervised release imposed on the prisoner shall, upon completion of the prisoner's sentence, be reduced by the amount of time spent on prerelease custody for recidivism reduction programming.

Requires BOP, to the greatest extent practicable, to enter into agreements with U.S. Probation and Pretrial Services to supervise inmates on home confinement and community supervision. Such agreements shall authorize Probation to exercise certain authority granted to BOP and shall require BOP to compensate Probation for the cost of such supervision. U.S. Probation shall offer assistance to inmates on prerelease custody not under its supervision.

In determining appropriate conditions for prerelease custody, BOP shall subject prisoners who demonstrate continued compliance to increasingly less restrictive conditions of confinement so as to effectively prepare the prisoner for reentry. Upon eligibility for transfer to prerelease custody, aliens whose deportation has been ordered by the court or who are subject to ICE detainers shall be transferred to ICE custody.

In the case of any inmate serving a sentence of longer than three years, BOP shall provide notice to the relevant U.S. Attorney's office prior to transferring the inmate to prerelease custody pursuant to this section. The U.S. Attorney may file a motion with the sentencing court to block or modify the prisoner's transfer to prerelease custody. Prior to granting any such motion, the court must hold a hearing at which the prisoner has the right to appear, which right the prisoner may waive. The court may deny or modify the conditions of such transfer if it finds in writing, by a preponderance of the evidence, that the transfer is inconsistent with certain sentencing factors specified in 18 U.S.C. § 3553(a).

Section 5. Reports: Requires the Attorney General to submit to the relevant congressional committees annual reports: 1) summarizing the Attorney General's implementation of the bill; 2) evaluating the risk assessment system; 3) evaluating the programming offered by BOP under

the bill; and 4) assessing budgetary savings under the bill. Requires the Attorney General to develop a plan so that 90% of the budgetary savings from the bill will be reinvested in providing programs under the bill, supervising inmates in prerelease custody, and providing assistance to state and local law enforcement.

Requires the Attorney General to submit, within 180 days, a report on work programs at BOP facilities, which shall include a strategy for expanding the availability of such programs without reducing job opportunities for American workers. Requires the Attorney General, in consultation with the Administrative Office of the Courts, to submit an annual report on recidivism rates among individuals released from federal prison. Requires the Attorney General to submit a report, within eight years of enactment, on the effectiveness of recidivism reduction programming among inmates excluded from earning time credit under the bill, which shall review the effectiveness of different categories of incentives in reducing recidivism.

Section 6. Promoting Successful Reentry: Extends the elderly pilot program authorized by the Second Chance Act of 2007 indefinitely and allows prisoners who are at least 60 years old and who have served at least two-thirds of their sentence to be eligible to participate. Requires the Attorney General to submit a report, within two years, evaluating best practices for reentry, and to carry out reentry demonstration projects in an appropriate number of judicial districts, to be determined by the Attorney General in consultation with the Administrative Office of the Courts. Such projects shall be designed by the U.S. Attorney in the relevant district, in consultation with the Chief Judge, Chief Federal Defender, Chief Probation Officer, the Bureau of Justice Assistance, the National Institute of Justice, and criminal justice experts. Within five years, the Administrative Office of the Courts, in consultation with the Attorney General, shall submit a review of project outcomes. The Attorney General is required to submit, within two years, a report on the impact of reentry on communities in which a disproportionate number of individuals reside upon release from incarceration.

Requires BOP to notify the Department of Veterans Affairs within two months after the commencement of an inmate's sentence if the inmate's presentence investigation report indicates that the inmate previously served in the Armed Forces, or if the inmate so informs BOP. Requires BOP to provide the Department of Veterans Affairs with reasonable access to any inmate so identified for purposes of facilitating the inmate's reentry.

Section 7. Additional Tools To Promote Recovery and Prevent Drug and Alcohol Abuse and Dependence: Requires presentence investigation reports to include information about the defendant's history of substance abuse and addiction, if applicable; the defendant's prior service in the Armed Forces, if applicable; and, for all inmates sentenced to finite prison terms, a detailed plan to reduce the defendant's likelihood to abusing drugs or alcohol, address the defendant's risk of recidivism, and prepare the inmate for reentry.

Requires BOP to ensure that each prisoner eligible for participation in the Residential Drug Abuse Program has an opportunity to commence such participation so as to complete such treatment no later than one year before the date on which such prisoner would otherwise be released. Allows BOP to reduce time credit awarded to inmates who received credit both for completion of RDAP and for successful completion of recidivism reduction programming, but

provides that such reduction may not exceed one-half of the credit earned by the inmate for successful completion of recidivism reduction programming.

Requires the Administrative Office of the Courts to operate pilot programs for individuals in supervised release premised on high-intensity supervision and the use of swift, predictable, and graduated sanctions for noncompliance with program rules. Such programs shall be carried out in judicial districts selected by the Administrative Office of the Courts in consultation with the Attorney General. Requires that participants in such programs shall be notified of program rules and penalties for noncompliance and shall be subject to regular drug district if the participant has a history of substance abuse. Requires supervising probation officers to notify the court within 24 hours of a determination that a program participant has violated a rule of the program, and requires the court to conduct a hearing on the violation as soon as practicable, and in no case later than one week after the report of the violation absent good cause. Courts may impose a range of penalties for such violations, to include modification of terms of supervision, referral to substance abuse treatment, imposing of a term of incarceration that is no longer than necessary to punish and deter the participant from future violations and, for participants who habitually fail to abide by program rules or pose a threat to public safety, termination from the program. BOP shall develop policies to allow participants sentenced to incarceration for violating program rules and who are employed to maintain such employment, which may include allowing the participant to serve the term of incarceration on the weekends. The Sentencing Commission shall issue advisory sentencing policies for program participants, which shall be consistent with the stated goal of the pilot program to impose predictable and graduated sentences that are no longer than necessary for violations of program rules. The pilot programs shall operate for five years, and may be extended by the Administrative Office of the Courts for one additional five-year term. Within six years, the Administrative Office of the Courts shall report to Congress on the outcome of the pilot programs.

Section 8. Eric Williams Correctional Officer Protection Act: Incorporates the Eric Williams Correctional Officer Protection Act, introduced by Senators Pat Toomey (R-PA) and Bob Casey (D-PA), and named in honor of Senior Officer Eric Williams, a BOP officer who was murdered by an inmate on February 25, 2013. The act provides that officers and employees of BOP who are employed in prisons, other than minimum or low security prisons, and who may respond to emergency situations in such prisons, shall be authorized to carry oleoresin capsicum spray (pepper spray). BOP officers and employees are required to complete a training course prior to being issued pepper spray, and may use pepper spray to reduce acts of violence committed by prisoners or prisoner visitors against guards, other prisoners, and prison visitors. Requires GAO to submit a report evaluating the effectiveness of issuing pepper spray to officers as well as the advisability of expanding the use of pepper spray in other BOP facilities.