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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide incentives for States to implement policy changes to reduce prison populations, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. CÁRDENAS introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide incentives for States to implement policy changes to reduce prison populations, 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 “Smart Sentencing Ad-  
5 justments Act”.

1 **SEC. 2. GRANT PROGRAM.**

2 (a) IN GENERAL.—Title I of the Omnibus Crime  
3 Control and Safe Street Act of 1968 (34 U.S.C. 10101  
4 et seq.) is amended by adding at the end the following:

5 **“PART PP—STATE PRISON POPULATION**  
6 **REDUCTION GRANT PROGRAM.**

7 **“SEC. 3061. DEFINITIONS.**

8 “In this part:

9 “(1) IMPLEMENTATION GRANT.—The term ‘im-  
10 plementation grant’ means a grant awarded to a  
11 State for the purpose of reducing the prison popu-  
12 lation of the State by not less than 20 percent,  
13 based on the average total prison population of the  
14 State for the 3-year period preceding the date on  
15 which the State applies for the implementation grant  
16 under section 3062(d).

17 “(2) PLANNING GRANT.—The term ‘planning  
18 grant’ means a grant awarded to a State for the  
19 purpose of—

20 “(A) analyzing criminal justice trends and  
21 factors to better understand excessive and un-  
22 necessary prison incarceration; and

23 “(B) exploring the feasibility of developing,  
24 adopting, and implementing policy changes to  
25 ameliorate criminal justice trends and factors

1 causing excessive and unnecessary prison incar-  
2 ceration.

3 “(3) PRISON.—The term ‘prison’ means a pub-  
4 licly or privately operated institution of a State for  
5 the confinement of an individual convicted of a  
6 criminal offense with a sentence of not less than 1  
7 year.

8 “(4) STATE.—The term ‘State’ has the mean-  
9 ing given the term in section 901.

10 **“SEC. 3062. GRANT PROGRAM.**

11 “(a) IN GENERAL.—Not later than 1 year after the  
12 date of enactment of the Smart Sentencing Adjustments  
13 Act, the Attorney General shall award planning grants  
14 and implementation grants to States, on a competitive  
15 basis, in accordance with this section.

16 “(b) PLANNING GRANTS.—

17 “(1) APPLICATIONS.—A State seeking a plan-  
18 ning grant under this section shall submit to the At-  
19 torney General an application at such time and in  
20 such manner as the Attorney General may require,  
21 which shall include—

22 “(A) a description of the State’s need for  
23 a planning grant; and

24 “(B) a description of the activities the  
25 State will carry out with the planning grant.

1           “(2) USE OF FUNDS.—A State that receives a  
2           planning grant under this section shall use the grant  
3           solely for the purpose of developing plans for the  
4           policy changes that would be required to carry out  
5           subsection (c)(3).

6           “(3) PLANNING GRANT REPORT.—Not later  
7           than 60 days after the end of the period of the plan-  
8           ning grant of a State, the State shall submit to the  
9           Attorney General a report that describes—

10                   “(A) the projects to be undertaken by the  
11                   State using amounts made available under the  
12                   planning grant; and;

13                   “(B) any additional information deter-  
14                   mined appropriate by the Attorney General.

15           “(c) IMPLEMENTATION GRANTS.—

16                   “(1) ELIGIBILITY.—In order to be eligible to  
17                   apply for an implementation grant under paragraph  
18                   (2), a State shall apply for, receive, and fully execute  
19                   a planning grant under subsection (b).

20                   “(2) APPLICATIONS.—A State seeking an im-  
21                   plementation grant under this section shall submit  
22                   to the Attorney General an application at such time  
23                   and in such manner as the Attorney General may re-  
24                   quire, which shall include—

1           “(A) the total prison population of the  
2           State, including racial, ethnic, gender, and so-  
3           cioeconomic information of the population and  
4           information relating to the income, education,  
5           and housing status of the population;

6           “(B) the rate of prison population growth  
7           of the State in relative and absolute estimates  
8           during the 25 year-period preceding the date of  
9           the application; and

10          “(C) a comprehensive and coherent plan  
11          detailing the proposals of the State to use  
12          amounts from the implementation grant that—

13               “(i) is based upon the activities the  
14               State performed with a planning grant re-  
15               ceived under this section; and

16               “(ii) describes the policy changes  
17               planned to carry out paragraph (3) to  
18               achieve the purpose of the implementation  
19               grant.

20          “(3) USE OF FUNDS.—A State that receives an  
21          implementation grant under this section shall use  
22          amounts from the grant to—

23               “(A) reduce the prison population of the  
24               State by—

1 “(i) establishing or supporting pro-  
2 grams that divert individuals from incar-  
3 ceration;

4 “(ii) eliminating policies, with a retro-  
5 active effect, that drive excessive and un-  
6 necessarily lengthy terms of imprisonment,  
7 including by—

8 “(I) repealing mandatory min-  
9 imum penalties for certain offenses;

10 “(II) repealing sentencing en-  
11 hancements for certain offenses; and

12 “(III) downgrading certain crimi-  
13 nal offenses, such as reducing felony  
14 offenses to misdemeanor offenses;

15 “(iii) implementing policies, with a  
16 retroactive effect, that help promote pro-  
17 portionalty and fairness in sentencing, in-  
18 cluding by—

19 “(I) capping sentences; and

20 “(II) reviewing and modifying  
21 sentences automatically after 15  
22 years;

23 “(iv) implementing policies, with a  
24 retroactive effect, that increase opportuni-  
25 ties for early release, including by—

1                   “(I) expanding opportunities and  
2                   incentives for incarcerated individuals  
3                   to earn time off of their custodial sen-  
4                   tence;

5                   “(II) repealing policies that re-  
6                   strict or reduce parole eligibility, such  
7                   as truth in sentencing laws; and

8                   “(III) eliminating policies that  
9                   delay initial parole eligibility beyond  
10                  10 years;

11                  “(v) reducing or eliminating the use  
12                  of incarceration as a sanction for non-  
13                  criminal rule violations of community su-  
14                  pervision, such as technical parole and pro-  
15                  bation violations, including missing drug  
16                  treatment classes;

17                  “(vi) improving the executive func-  
18                  tions of the State that can promote early  
19                  release by—

20                  “(I) establishing or expanding  
21                  the use of mechanisms providing for  
22                  the early release of incarcerated indi-  
23                  viduals based on specific criteria, such  
24                  as advanced age and terminal illness,  
25                  by—

1                   “(aa) convening or staffing  
2 boards of experts to advise offi-  
3 cials of the State with the au-  
4 thority to promulgate sentencing  
5 policy on the exercise of the  
6 State’s compassionate, medical,  
7 and geriatric release power;

8                   “(bb) broadening eligibility  
9 criteria for release;

10                   “(cc) streamlining and clari-  
11 fying application for release re-  
12 view protocols; and

13                   “(dd) increasing the number  
14 of compassionate, medical, and  
15 geriatric releases; and

16                   “(II) improving clemency proc-  
17 esses, including by—

18                   “(aa) convening or staffing  
19 boards of experts to advise offi-  
20 cials of the State with the au-  
21 thority to promulgate sentencing  
22 policy on the exercise of the  
23 State’s clemency power;

24                   “(bb) broadening eligibility  
25 for clemency;



1                   “(cc) streamlining and clari-  
2                   fying clemency application review  
3                   protocols; and

4                   “(dd) increasing the number  
5                   of clemency grants;

6                   “(vii) improving prosecutorial func-  
7                   tions to correct extreme, disproportionate,  
8                   unjust, or wrongful criminal convictions  
9                   and custodial sentences by—

10                   “(I) establishing or expanding  
11                   conviction integrity units or conviction  
12                   review units within prosecutorial of-  
13                   fices that work to prevent, identify,  
14                   and remedy false convictions; or

15                   “(II) establishing or expanding  
16                   sentencing review units within pros-  
17                   ecutorial offices to address over-  
18                   crowding, racial inequities, and  
19                   lengthy prison sentences that are con-  
20                   sidered extreme or disproportionate;  
21                   and

22                   “(viii) improving the quality of indi-  
23                   gent defense; or

24                   “(B) reduce the recurrence of recidivism  
25                   after a term of incarceration and reduce the

1 collateral consequences experienced by individ-  
2 uals with criminal records by—

3 “(i) expanding programming for in-  
4 carcerated populations within prisons that  
5 enables those populations to successfully  
6 transition back into society;

7 “(ii) improving access for  
8 expungement and record sealing processes;

9 “(iii) adopting laws prohibiting em-  
10 ployers from asking applicants about their  
11 criminal history on applications for em-  
12 ployment or prior to tendering an employ-  
13 ment offer;

14 “(iv) eliminating fees imposed on a  
15 defendant by—

16 “(I) discharging any fine or fee  
17 debt for individuals who are incarcer-  
18 ated or exiting prison; or

19 “(II) developing policies and pro-  
20 grams to assess fines and fees based  
21 on an individual’s ability to pay;

22 “(v) establishing or supporting wrap-  
23 around or community-based services for in-  
24 dividuals reentering their communities  
25 after incarceration, including services relat-

1           ing to housing, disability, employment,  
2           education, healthcare, behavior and mental  
3           health, substance abuse, and childcare; or  
4           “vi) supporting community-based  
5           crime prevention programs that work di-  
6           rectly with formerly incarcerated individ-  
7           uals or in communities that have a higher  
8           prevalence of individuals with criminal  
9           records, such as—

10                   “(I) programs involving violence  
11                   prevention;

12                   “(II) housing and supportive  
13                   housing;

14                   “(III) jobs and job placement;

15                   “(IV) substance abuse or mental  
16                   health treatment; and

17                   “(V) other wrap-around support  
18                   services aiming to build pathways to  
19                   life stabilizing opportunities.

20           “(4) IMPLEMENTATION GRANT REPORT.—Not  
21           later than 1 year after the date on which a State re-  
22           ceives an implementation grant under this section,  
23           and annually thereafter, the State shall submit to  
24           the Attorney General a report, at such time, in such

1 manner, and containing such information as the At-  
2 torney General may require, that—

3 “(A) identifies the programs and policies  
4 funded with the grant;

5 “(B) assesses racial, ethnic, gender, age,  
6 and socioeconomic impacts of the programs and  
7 policies funded with the grant with independent  
8 researchers or a consortium of independent re-  
9 searchers, such as research or academic institu-  
10 tions; and

11 “(C) includes an evaluation of increases or  
12 decreases in a State’s prison population by as-  
13 sessing changes in—

14 “(i) pretrial detention;

15 “(ii) sentencing;

16 “(iii) incarceration;

17 “(iv) probation;

18 “(v) parole;

19 “(vi) clemency; and

20 “(vii) compassionate, medical, or geri-  
21 atric release.

22 “(5) SUBGRANTS.—

23 “(A) IN GENERAL.—A State receiving an  
24 implementation grant under this section shall  
25 use not less than 20 percent of the amount of

1 the grant to award subgrants to nonprofit orga-  
2 nizations that meet the criteria described in  
3 subparagraph (B), which shall assist in the im-  
4 plementation of the policy changes described in  
5 subsection (c)(2).

6 “(B) CRITERIA.—In selecting nonprofit or-  
7 ganizations to receive subgrants under para-  
8 graph (1), a State shall give priority to non-  
9 profit organizations that—

10 “(i) have a demonstrated track record  
11 of providing services to reintegrate individ-  
12 uals released from prison into society with  
13 a goal of reducing the recurrence of recidi-  
14 vism;

15 “(ii) are based in geographic areas  
16 with a higher prevalence of individuals  
17 with criminal records;

18 “(iii) are led by or employ individuals  
19 who have been incarcerated or have family  
20 members who are or have been incarcer-  
21 ated; or

22 “(iv) primarily serve individuals  
23 who—

24 “(I) have been arrested or con-  
25 victed of a criminal offense; or

1                   “(II) have spent time in jail,  
2                   prison, or on probation or parole.

3                   “(6) RENEWAL.—A State that receives an im-  
4                   plementation grant under this section may apply for  
5                   an additional implementation grant at the end of the  
6                   term of the implementation grant if the State has  
7                   reduced the prison population of the State by not  
8                   less than 20 percent, based on the average total  
9                   prison population of the State during the 3-year pe-  
10                  riod preceding the date of the application for the im-  
11                  plementation grant under paragraph (2).

12                  “(d) TERMS AND CONDITIONS.—

13                   “(1) DURATION.—

14                   “(A) PLANNING GRANT.—A planning  
15                   grant under this section shall be awarded for a  
16                   period of 2 fiscal years.

17                   “(B) IMPLEMENTATION GRANT.—An im-  
18                   plementation grant under this section shall be  
19                   awarded for a period of 3 fiscal years.

20                   “(2) AMOUNT.—

21                   “(A) PLANNING GRANT.—The amount of  
22                   each planning grant awarded under this section  
23                   shall not exceed \$700,000 for the duration of  
24                   the grant.

1           “(B) IMPLEMENTATION GRANT.—The  
2 amount of each implementation grant awarded  
3 under this section shall not exceed \$70,000,000  
4 for the duration of the grant.

5           “(3) NUMBER OF GRANT AWARDS.—

6           “(A) PLANNING GRANTS.—The Attorney  
7 General may award planning grants under this  
8 section to not more than 25 States during each  
9 fiscal year.

10           “(B) IMPLEMENTATION GRANTS.—The At-  
11 torney General may award implementation  
12 grants under this section to no more than 25  
13 States during each fiscal year.

14           “(4) PROHIBITIONS.—

15           “(A) INMATE TRANSFERS.—During any  
16 grant term under this Act, a State may not  
17 transfer an individual convicted of a criminal  
18 offense with a sentence of not less than 1 year  
19 from a prison of the State to any penitentiary,  
20 jail, or other institution or facility for the con-  
21 finement of individuals convicted of criminal of-  
22 fenses with sentences of less than 1 year for the  
23 purpose of carrying out subsection (c)(3).

24           “(B) POLICIES.—During the term of any  
25 grant awarded under this section, a State that

1 receives the grant may not establish or amend  
2 any—

3 “(i) sentence enhancement or law that  
4 would increase the punishment of an indi-  
5 vidual previously convicted of a criminal  
6 offense;

7 “(ii) habitual offender law or law that  
8 imposes longer sentences on individuals  
9 who have been convicted of a certain num-  
10 ber of criminal offenses;

11 “(iii) truth in sentencing law or law  
12 that aims to reduce the difference between  
13 sentences imposed and the actual time that  
14 individuals serve in prison;

15 “(iv) mandatory minimum sentencing  
16 law or law that requires judges to sentence  
17 offenders to a specified minimum prison  
18 term for specific offenses to increase the  
19 minimum prison sentence; or

20 “(v) policies that would result in in-  
21 creased incarceration.

22 “(C) PROHIBITIONS.—A State receiving  
23 any grant under this part may not use amounts  
24 from the grant to—



1           “(i) build or maintain any prison, jail,  
2           or other facility designed for the confine-  
3           ment of individuals convicted of criminal  
4           offenses;

5           “(ii) enter into a contract with a for-  
6           profit company to build or manage prisons,  
7           jails, or other correctional facilities;

8           “(iii) hire, train, or maintain sworn  
9           law enforcement officers;

10          “(iv) purchase law enforcement equip-  
11          ment; or

12          “(v) create or fund programs that  
13          would increase incarceration.

14          “(5) PENALTY.—If the Attorney General deter-  
15          mines that a State receiving a grant under this sec-  
16          tion violates a provision of this part, the Attorney  
17          General shall—

18                 “(A) require the State to repay 10 percent  
19                 of the amount of the grant; and

20                 “(B) prohibit the State from receiving any  
21                 other grant under this part for not less than 3  
22                 years.

23          “(6) MAXIMUMS.—The Attorney General may  
24          award a State under this section—

25                 “(A) not more than 1 planning grant; and

1                   “(B) not more than 2 consecutive imple-  
2                   mentation grants.

3           “(e) RESERVATION.—The Attorney General shall re-  
4           serve not more than 5 percent of the amount appropriated  
5           to carry out this part for administration, oversight, and  
6           technical assistance activities through the Office of Justice  
7           Programs.”.

8           (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
9           1001(a) of title I of the Omnibus Crime Control and Safe  
10          Streets Act of 1968 (34 U.S.C. 10261(a)) is amended by  
11          adding at the end the following:

12          “(29) There are authorized to be appropriated to  
13          carry out part PP \$2,000,000,000 for each of fiscal years  
14          2024 through 2034.”.