

115TH CONGRESS
1ST SESSION

H. R. 1905

To prohibit Federal agencies and Federal contractors from requesting that an applicant for employment disclose criminal history record information before the applicant has received a conditional offer, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 2017

Mr. CUMMINGS (for himself, Mr. ISSA, Ms. JACKSON LEE, Mr. SCOTT of Virginia, Mr. SMITH of Washington, Mr. CONYERS, Mrs. WATSON COLEMAN, Ms. NORTON, Mr. GRIJALVA, Mr. COHEN, Mr. FOSTER, Mr. PAYNE, Ms. BASS, and Mr. SEAN PATRICK MALONEY of New York) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on House Administration, the Judiciary, Armed Services, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit Federal agencies and Federal contractors from requesting that an applicant for employment disclose criminal history record information before the applicant has received a conditional offer, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fair Chance to Com-
3 pete for Jobs Act of 2017” or the “Fair Chance Act”.

4 **SEC. 2. PROHIBITION ON CRIMINAL HISTORY INQUIRIES**
5 **PRIOR TO CONDITIONAL OFFER FOR FED-**
6 **ERAL EMPLOYMENT.**

7 (a) IN GENERAL.—Subpart H of part III of title 5,
8 United States Code, is amended by adding at the end the
9 following:

10 **“CHAPTER 92—PROHIBITION ON CRIMI-**
11 **NAL HISTORY INQUIRIES PRIOR TO**
12 **CONDITIONAL OFFER**

“Sec.

“9201. Definitions.

“9202. Limitations on requests for criminal history record information.

“9203. Agency policies; complaint procedures.

“9204. Adverse action.

“9205. Procedures.

“9206. Rules of construction.

13 **“§ 9201. Definitions**

14 “In this chapter—

15 “(1) the term ‘agency’ means ‘Executive agen-
16 cy’ as such term is defined in section 105 and in-
17 cludes—

18 “(A) the United States Postal Service and
19 the Postal Regulatory Commission; and

20 “(B) the Executive Office of the President;

21 “(2) the term ‘appointing authority’ means an
22 employee in the executive branch of the Government

1 of the United States that has authority to make ap-
2 pointments to positions in the civil service;

3 “(3) the term ‘conditional offer’ means an offer
4 of employment in a position in the civil service that
5 is conditioned upon the results of a criminal history
6 inquiry;

7 “(4) the term ‘criminal history record informa-
8 tion’—

9 “(A) except as provided in subparagraph
10 (B), has the meaning given the term in section
11 9101(a);

12 “(B) includes any information described in
13 the first sentence of section 9101(a)(2) that has
14 been sealed or expunged pursuant to law; and

15 “(C) includes information collected by a
16 criminal justice agency, relating to an act or al-
17 leged act of juvenile delinquency, that is analo-
18 gous to criminal history record information (in-
19 cluding such information that has been sealed
20 or expunged pursuant to law); and

21 “(5) the term ‘suspension’ has the meaning
22 given the term in section 7501.

1 **“§ 9202. Limitations on requests for criminal history**
2 **record information**

3 “(a) INQUIRIES PRIOR TO CONDITIONAL OFFER.—
4 Except as provided in subsections (b) and (c), an employee
5 of an agency may not request, in oral or written form (in-
6 cluding through the Declaration for Federal Employment
7 (Office of Personnel Management Optional Form 306), or
8 any similar successor form), including through the
9 USAJOBS internet website or any other electronic means,
10 that an applicant for an appointment to a position in the
11 civil service disclose criminal history record information
12 regarding the applicant before the appointing authority
13 extends a conditional offer to the applicant.

14 “(b) OTHERWISE REQUIRED BY LAW.—The prohibi-
15 tion under subsection (a) shall not apply with respect to
16 an applicant for a position in the civil service if consider-
17 ation of criminal history record information prior to a con-
18 ditional offer with respect to the position is otherwise re-
19 quired by law.

20 “(c) EXCEPTION FOR CERTAIN POSITIONS.—The
21 prohibition under subsection (a) shall not apply with re-
22 spect to an applicant for an appointment to a position—

23 “(1) that requires a determination of eligibility
24 described in clause (i), (ii), or (iii) of section
25 9101(b)(1)(A); or

1 “(2) as a Federal law enforcement officer (as
2 defined in section 115(c) of title 18).

3 **“§ 9203. Agency policies; complaint procedures**

4 “The Director of the Office of Personnel Manage-
5 ment shall—

6 “(1) develop, implement, and publish a policy to
7 assist employees of agencies in complying with sec-
8 tion 9202 and the regulations issued pursuant to
9 such section; and

10 “(2) establish and publish procedures under
11 which an applicant for an appointment to a position
12 in the civil service may submit a complaint, or any
13 other information, relating to compliance by an em-
14 ployee of an agency with section 9202.

15 **“§ 9204. Adverse action**

16 “(a) FIRST VIOLATION.—If the Director of the Office
17 of Personnel Management determines, after notice and an
18 opportunity for a hearing on the record, that an employee
19 of an agency has violated section 9202, the Director
20 shall—

21 “(1) issue to the employee a written warning
22 that includes a description of the violation and the
23 additional penalties that may apply for subsequent
24 violations; and

1 “(2) file such warning in the employee’s official
2 personnel record file.

3 “(b) SUBSEQUENT VIOLATIONS.—If the Director of
4 the Office of Personnel Management determines, after no-
5 tice and an opportunity for a hearing on the record, that
6 an employee that was subject to subsection (a) has com-
7 mitted a subsequent violation of section 9202, the Director
8 may take the following action:

9 “(1) For a second violation, suspension of the
10 employee for a period of not more than 7 days.

11 “(2) For a third violation, suspension of the
12 employee for a period of more than 7 days.

13 “(3) For a fourth violation—

14 “(A) suspension of the employee for a pe-
15 riod of more than 7 days; and

16 “(B) a civil penalty against the employee
17 in an amount that is not more than \$250.

18 “(4) For a fifth violation—

19 “(A) suspension of the employee for a pe-
20 riod of more than 7 days; and

21 “(B) a civil penalty against the employee
22 in an amount that is not more than \$500.

23 “(5) For any subsequent violation—

24 “(A) suspension of the employee for a pe-
25 riod of more than 7 days; and

1 “(B) a civil penalty against the employee
2 in an amount that is not more than \$1,000.

3 **“§ 9205. Procedures**

4 “(a) APPEALS.—The Director of the Office of Per-
5 sonnel Management shall by rule establish procedures pro-
6 viding for an appeal from any adverse action taken under
7 section 9204 by not later than 30 days after the date of
8 the action.

9 “(b) APPLICABILITY OF OTHER LAWS.—An adverse
10 action taken under section 9204 (including a determina-
11 tion in an appeal from such an action under subsection
12 (a) of this section) shall not be subject to—

13 “(1) the procedures under chapter 75; or

14 “(2) except as provided in subsection (a) of this
15 section, appeal or judicial review.

16 **“§ 9206. Rules of construction**

17 “Nothing in this chapter may be construed to—

18 “(1) authorize any officer or employee of an
19 agency to request the disclosure of information de-
20 scribed under subparagraphs (B) and (C) of section
21 9201(4); or

22 “(2) create a private right of action for any
23 person.”.

24 (b) REGULATIONS; EFFECTIVE DATE.—

1 (1) REGULATIONS.—Not later than 1 year after
 2 the date of enactment of this Act, the Director of
 3 the Office of Personnel Management shall issue such
 4 regulations as are necessary to carry out chapter 92
 5 of title 5, United States Code (as added by this
 6 Act).

7 (2) EFFECTIVE DATE.—Section 9202 of title 5,
 8 United States Code (as added by this Act), shall
 9 take effect on the date that is 2 years after the date
 10 of enactment of this Act.

11 (c) TECHNICAL AND CONFORMING AMENDMENT.—
 12 The table of chapters for part III of title 5, United States
 13 Code, is amended by inserting after the item relating to
 14 chapter 91 the following:

**“92. Prohibition on criminal history inquiries prior to
 conditional offer 9201”.**

15 (d) APPLICATION TO LEGISLATIVE BRANCH.—

16 (1) IN GENERAL.—The Congressional Account-
 17 ability Act of 1995 (2 U.S.C. 1301 et seq.) is
 18 amended—

19 (A) in section 102(a) (2 U.S.C. 1302(a)),
 20 by adding at the end the following:

21 “(12) Section 9202 of title 5, United States
 22 Code.”;

23 (B) by redesignating section 207 (2 U.S.C.
 24 1317) as section 208; and

1 (C) by inserting after section 206 (2
2 U.S.C. 1316) the following new section:

3 **“SEC. 207. RIGHTS AND PROTECTIONS RELATING TO CRIMI-**
4 **NAL HISTORY INQUIRIES.**

5 “(a) DEFINITIONS.—In this section, the terms ‘agen-
6 cy’, ‘criminal history record information’, and ‘suspension’
7 have the meanings given the terms in section 9201 of title
8 5, United States Code, except as otherwise modified by
9 this section.

10 “(b) RESTRICTIONS ON CRIMINAL HISTORY INQUIR-
11 IES.—

12 “(1) IN GENERAL.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), an employee of an employing
15 office may not request that an applicant for em-
16 ployment as a covered employee disclose crimi-
17 nal history record information if the request
18 would be prohibited under section 9202 of title
19 5, United States Code, if made by an employee
20 of an agency.

21 “(B) CONDITIONAL OFFER.—For purposes
22 of applying section 9202 of title 5, United
23 States Code, under subparagraph (A), a ref-
24 erence in such section to a conditional offer in
25 such section shall be considered to be an offer

1 of employment to a covered employee that is
2 conditioned upon the results of a criminal his-
3 tory inquiry.

4 “(2) RULES OF CONSTRUCTION.—The provi-
5 sions of section 9206 of title 5, United States Code,
6 shall apply to employing offices, consistent with reg-
7 ulations issued under subsection (d).

8 “(c) REMEDY.—

9 “(1) IN GENERAL.—The remedy for a violation
10 of subsection (b)(1) shall be such remedy as would
11 be appropriate if awarded under section 9204 of title
12 5, United States Code, if the violation had been
13 committed by an employee of an agency, consistent
14 with regulations issued under subsection (d), except
15 that the reference in that section to a suspension
16 shall be considered to be a suspension with the level
17 of compensation provided for a covered employee
18 who is taking unpaid leave under section 202.

19 “(2) PROCESS FOR OBTAINING RELIEF.—An
20 applicant for employment as a covered employee who
21 alleges a violation of subsection (b)(1) may rely on
22 the provisions of title IV (other than sections
23 404(2), 407, and 408), consistent with regulations
24 issued under subsection (d).

25 “(d) REGULATIONS TO IMPLEMENT SECTION.—

1 “(1) IN GENERAL.—Not later than 18 months
2 after the date of enactment of the Fair Chance to
3 Compete for Jobs Act of 2017, the Board shall, pur-
4 suant to section 304, issue regulations to implement
5 this section.

6 “(2) PARALLEL WITH AGENCY REGULATIONS.—
7 The regulations issued under paragraph (1) shall be
8 the same as substantive regulations issued by the
9 Director of the Office of Personnel Management
10 under section 2(b)(1) of the Fair Chance to Com-
11 pete for Jobs Act of 2017 to implement the statu-
12 tory provisions referred to in subsections (a) through
13 (c) except to the extent that the Board may deter-
14 mine, for good cause shown and stated together with
15 the regulation, that a modification of such regula-
16 tions would be more effective for the implementation
17 of the rights and protections under this section.

18 “(e) EFFECTIVE DATE.—Section 102(a)(12) and
19 subsections (a) through (c) shall take effect on the date
20 on which section 9202 of title 5, United States Code, ap-
21 plies with respect to agencies.”.

22 (2) CLERICAL AMENDMENT.—The table of con-
23 tents of such Act is amended—

1 (A) by redesignating the item relating to
 2 section 207 as the item relating to section 208;
 3 and

4 (B) by inserting after the item relating to
 5 section 206 the following new item:

“Sec. 207. Rights and protections relating to criminal history inquiries.”.

6 (e) APPLICATION TO JUDICIAL BRANCH.—

7 (1) IN GENERAL.—Section 604 of title 28,
 8 United States Code, is amended by adding at the
 9 end the following:

10 “(i) RESTRICTIONS ON CRIMINAL HISTORY INQUIR-
 11 IES.—

12 “(1) DEFINITIONS.—In this subsection—

13 “(A) the terms ‘agency’ and ‘criminal his-
 14 tory record information’ have the meanings
 15 given those terms in section 9201 of title 5;

16 “(B) the term ‘covered employee’ means an
 17 employee of the judicial branch of the United
 18 States Government, other than—

19 “(i) any judge or justice who is enti-
 20 tled to hold office during good behavior;

21 “(ii) a United States magistrate
 22 judge; or

23 “(iii) a bankruptcy judge; and

24 “(C) the term ‘employing office’ means any
 25 office or entity of the judicial branch of the

1 United States Government that employs covered
2 employees.

3 “(2) RESTRICTION.—A covered employee may
4 not request that an applicant for employment as a
5 covered employee disclose criminal history record in-
6 formation if the request would be prohibited under
7 section 9202 of title 5 if made by an employee of an
8 agency.

9 “(3) EMPLOYING OFFICE POLICIES; COMPLAINT
10 PROCEDURE.—The provisions of sections 9203 and
11 9206 of title 5 shall apply to employing offices and
12 to applicants for employment as covered employees,
13 consistent with regulations issued by the Director to
14 implement this subsection.

15 “(4) ADVERSE ACTION.—

16 “(A) ADVERSE ACTION.—The Director
17 may take such adverse action with respect to a
18 covered employee who violates paragraph (2) as
19 would be appropriate under section 9204 of
20 title 5 if the violation had been committed by
21 an employee of an agency.

22 “(B) APPEALS.—The Director shall by
23 rule establish procedures providing for an ap-
24 peal from any adverse action taken under sub-

1 paragraph (A) by not later than 30 days after
2 the date of the action.

3 “(C) APPLICABILITY OF OTHER LAWS.—
4 Except as provided in subparagraph (B), an ad-
5 verse action taken under subparagraph (A) (in-
6 cluding a determination in an appeal from such
7 an action under subparagraph (B)) shall not be
8 subject to appeal or judicial review.

9 “(5) REGULATIONS TO BE ISSUED.—

10 “(A) IN GENERAL.—Not later than 18
11 months after the date of enactment of the Fair
12 Chance to Compete for Jobs Act of 2017, the
13 Director shall issue regulations to implement
14 this subsection.

15 “(B) PARALLEL WITH AGENCY REGULA-
16 TIONS.—The regulations issued under subpara-
17 graph (A) shall be the same as substantive reg-
18 ulations promulgated by the Director of the Of-
19 fice of Personnel Management under section
20 2(b)(1) of the Fair Chance to Compete for Jobs
21 Act of 2017 except to the extent that the Direc-
22 tor of the Administrative Office of the United
23 States Courts may determine, for good cause
24 shown and stated together with the regulation,
25 that a modification of such regulations would be

1 more effective for the implementation of the
 2 rights and protections under this subsection.

3 “(6) EFFECTIVE DATE.—Paragraphs (1)
 4 through (4) shall take effect on the date on which
 5 section 9202 of title 5 applies with respect to agen-
 6 cies.”.

7 **SEC. 3. PROHIBITION ON CRIMINAL HISTORY INQUIRIES BY**
 8 **CONTRACTORS PRIOR TO CONDITIONAL**
 9 **OFFER.**

10 (a) CIVILIAN AGENCY CONTRACTS.—

11 (1) IN GENERAL.—Division C of subtitle I of
 12 title 41, United States Code, is amended by adding
 13 at the end the following new section:

14 **“§ 4713. Prohibition on criminal history inquiries by**
 15 **contractors prior to conditional offer**

16 “(a) LIMITATION ON CRIMINAL HISTORY INQUIR-
 17 IES.—

18 “(1) IN GENERAL.—Except as provided in para-
 19 graphs (2) and (3), an executive agency—

20 “(A) may not require that an individual or
 21 sole proprietor who submits a bid for a contract
 22 to disclose criminal history record information
 23 regarding that individual or sole proprietor be-
 24 fore determining the apparent awardee; and

1 “(B) shall require as a condition of receiv-
2 ing a Federal contract and receiving payments
3 under such contract that the contractor may
4 not verbally, or through written form, request
5 the disclosure of criminal history record infor-
6 mation regarding an applicant for a position re-
7 lated to work under such contract before the
8 contractor extends a conditional offer to the ap-
9 plicant.

10 “(2) OTHERWISE REQUIRED BY LAW.—The
11 prohibition under paragraph (1) does not apply with
12 respect to a contract if consideration of criminal his-
13 tory record information prior to a conditional offer
14 with respect to the position is otherwise required by
15 law.

16 “(3) EXCEPTION FOR CERTAIN POSITIONS.—
17 The prohibition under paragraph (1) does not apply
18 with respect to a contract that requires an individual
19 hired under the contract to access classified informa-
20 tion or to have sensitive law enforcement or national
21 security duties.

22 “(b) COMPLAINT PROCEDURES.—The Administrator
23 of General Services shall establish and publish procedures
24 under which an applicant for a position with a Federal
25 contractor may submit to the Administrator a complaint,

1 or any other information, relating to compliance by the
2 contractor with subsection (a)(1)(B).

3 “(c) ACTION FOR VIOLATIONS OF PROHIBITION ON
4 CRIMINAL HISTORY INQUIRIES.—

5 “(1) FIRST VIOLATION.—If the head of an execu-
6 tive agency determines that a contractor has vio-
7 lated subsection (a)(1)(B), such head shall—

8 “(A) notify the contractor;

9 “(B) provide 30 days after such notifica-
10 tion for the contractor to appeal the determina-
11 tion; and

12 “(C) issue a written warning to the con-
13 tractor that includes a description of the viola-
14 tion and the additional remedies that may apply
15 for subsequent violations.

16 “(2) SUBSEQUENT VIOLATION.—If the head of
17 an executive agency determines that a contractor
18 that was subject to paragraph (1) has committed a
19 subsequent violation of subsection (a)(1)(B), such
20 head shall notify the contractor, shall provide 30
21 days after such notification for the contractor to ap-
22 peal the determination, and, in consultation with the
23 relevant Federal agencies, may take actions, depend-
24 ing on the severity of the infraction and the contrac-
25 tor’s history of violations, including—

1 “(A) providing written guidance to the
2 contractor that the contractor’s eligibility for
3 contracts requires compliance with this section;

4 “(B) requiring that the contractor respond
5 within 30 days affirming that the contractor is
6 taking steps to comply with this section;

7 “(C) suspending payment under the con-
8 tract for which the applicant was being consid-
9 ered;

10 “(D) terminating the contract under which
11 the applicant was being considered; and

12 “(E) referring the contractor to the sus-
13 pension and debarment office of the agency for
14 consideration of actions pursuant to section 9.4
15 of the Federal Acquisition Regulation.

16 “(d) DEFINITIONS.—In this section:

17 “(1) CONDITIONAL OFFER.—The term ‘condi-
18 tional offer’ means an offer of employment for a po-
19 sition related to work under a contract that is condi-
20 tioned upon the results of a criminal history inquiry.

21 “(2) CRIMINAL HISTORY RECORD INFORMA-
22 TION.—The term ‘criminal history record informa-
23 tion’ has the meaning given that term in section
24 9201 of title 5.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
 2 tions for division C of subtitle I of title 41, United
 3 States Code, is amended by inserting after the item
 4 relating to section 4712 the following new item:

“4713. Prohibition on criminal history inquiries by contractors prior to condi-
 tional offer.”.

5 (3) EFFECTIVE DATE.—Section 4713(a) of title
 6 41, United States Code, as added by paragraph (1),
 7 shall apply with respect to contracts awarded pursu-
 8 ant to solicitations issued after the effective date de-
 9 scribed in section 2(b)(2) of this Act.

10 (b) DEFENSE CONTRACTS.—

11 (1) IN GENERAL.—Chapter 137 of title 10,
 12 United States Code, is amended by adding at the
 13 end the following new section:

14 **“§ 2338. Prohibition on criminal history inquiries by**
 15 **contractors prior to conditional offer**

16 “(a) LIMITATION ON CRIMINAL HISTORY INQUIR-
 17 IES.—

18 “(1) IN GENERAL.—Except as provided in para-
 19 graphs (2) and (3), the head of an agency—

20 “(A) may not require that an individual or
 21 sole proprietor who submits a bid for a contract
 22 to disclose criminal history record information
 23 regarding that individual or sole proprietor be-
 24 fore determining the apparent awardee; and

1 “(B) shall require as a condition of receiv-
2 ing a Federal contract and receiving payments
3 under such contract that the contractor may
4 not verbally or through written form request
5 the disclosure of criminal history record infor-
6 mation regarding an applicant for a position re-
7 lated to work under such contract before such
8 contractor extends a conditional offer to the ap-
9 plicant.

10 “(2) OTHERWISE REQUIRED BY LAW.—The
11 prohibition under paragraph (1) does not apply with
12 respect to a contract if consideration of criminal his-
13 tory record information prior to a conditional offer
14 with respect to the position is otherwise required by
15 law.

16 “(3) EXCEPTION FOR CERTAIN POSITIONS.—
17 The prohibition under paragraph (1) does not apply
18 with respect to a contract that requires an individual
19 hired under the contract to access classified informa-
20 tion or to have sensitive law enforcement or national
21 security duties.

22 “(b) COMPLAINT PROCEDURES.—The Secretary of
23 Defense shall establish and publish procedures under
24 which an applicant for a position with a Department of
25 Defense contractor may submit a complaint, or any other

1 information, relating to compliance by the contractor with
2 subsection (a)(1)(B).

3 “(c) ACTION FOR VIOLATIONS OF PROHIBITION ON
4 CRIMINAL HISTORY INQUIRIES.—

5 “(1) FIRST VIOLATION.—If the Secretary of
6 Defense determines that a contractor has violated
7 subsection (a)(1)(B), the Secretary shall—

8 “(A) notify the contractor;

9 “(B) provide 30 days after such notifica-
10 tion for the contractor to appeal the determina-
11 tion; and

12 “(C) issue a written warning to the con-
13 tractor that includes a description of the viola-
14 tion and the additional penalties that may apply
15 for subsequent violations.

16 “(2) SUBSEQUENT VIOLATIONS.—If the Sec-
17 retary of Defense determines that a contractor that
18 was subject to paragraph (1) has committed a sub-
19 sequent violation of subsection (a)(1)(B), the Sec-
20 retary shall notify the contractor, shall provide 30
21 days after such notification for the contractor to ap-
22 peal the determination, and, in consultation with the
23 relevant Federal agencies, may take actions, depend-
24 ing on the severity of the infraction and the contrac-
25 tor’s history of violations, including—

1 “(A) providing written guidance to the
2 contractor that the contractor’s eligibility for
3 contracts requires compliance with this section;

4 “(B) requiring that the contractor respond
5 within 30 days affirming that the contractor is
6 taking steps to comply with this section;

7 “(C) suspending payment under the con-
8 tract for which the applicant was being consid-
9 ered;

10 “(D) terminating the contract under which
11 the applicant was being considered; and

12 “(E) referring the contractor to the sus-
13 pension and debarment office of the agency for
14 consideration of actions pursuant to section 9.4
15 of the Federal Acquisition Regulation.

16 “(d) DEFINITIONS.—In this section:

17 “(1) CONDITIONAL OFFER.—The term ‘condi-
18 tional offer’ means an offer of employment for a po-
19 sition related to work under a contract that is condi-
20 tioned upon the results of a criminal history inquiry.

21 “(2) CRIMINAL HISTORY RECORD INFORMA-
22 TION.—The term ‘criminal history record informa-
23 tion’ has the meaning given that term in section
24 9201 of title 5.”.

1 (2) EFFECTIVE DATE.—Section 2338(a) of title
 2 10, United States Code, as added by paragraph (1),
 3 shall apply with respect to contracts awarded pursu-
 4 ant to solicitations issued after the effective date de-
 5 scribed in section 2(b)(2) of this Act.

6 (3) CLERICAL AMENDMENT.—The table of sec-
 7 tions for chapter 137 of title 10, United States
 8 Code, is amended by inserting after the item relating
 9 to section 2337 the following new item:

“2338. Prohibition on criminal history inquiries by contractors prior to condi-
 tional offer.”.

10 (c) REVISIONS TO FEDERAL ACQUISITION REGULA-
 11 TION.—

12 (1) IN GENERAL.—Not later than 18 months
 13 after the date of enactment of this Act, the Federal
 14 Acquisition Regulatory Council shall revise the Fed-
 15 eral Acquisition Regulation to implement section
 16 4713 of title 41, United States Code, and section
 17 2338 of title 10, United States Code, as added by
 18 this section.

19 (2) CONSISTENCY WITH OFFICE OF PERSONNEL
 20 MANAGEMENT REGULATIONS.—The Federal Acquisi-
 21 tion Regulatory Council shall revise the Federal Ac-
 22 quisition Regulation under paragraph (1) to be con-
 23 sistent with the regulations issued by the Director of
 24 the Office of Personnel Management under section

1 2(b)(1) to the maximum extent practicable. The
 2 Council shall include together with such revision an
 3 explanation of any substantive modification of the
 4 Office of Personnel Management regulations, includ-
 5 ing an explanation of how such modification will
 6 more effectively implement the rights and protec-
 7 tions under this section.

8 **SEC. 4. REPORT ON EMPLOYMENT OF INDIVIDUALS FOR-**
 9 **MERLY INCARCERATED IN FEDERAL PRIS-**
 10 **ONS.**

11 (a) DEFINITION.—In this section, the term “covered
 12 individual”—

13 (1) means an individual who has completed a
 14 term of imprisonment in a Federal prison for a Fed-
 15 eral criminal offense; and

16 (2) does not include an alien who is or will be
 17 removed from the United States for a violation of
 18 the immigration laws (as such term is defined in sec-
 19 tion 101 of the Immigration and Nationality Act (8
 20 U.S.C. 1101)).

21 (b) STUDY AND REPORT REQUIRED.—The Director
 22 of the Bureau of Justice Statistics, in coordination with
 23 the Director of the Bureau of the Census, shall—

24 (1) not later than 6 months after the date of
 25 enactment of this Act, design and initiate a study on

1 the employment of covered individuals after their re-
2 lease from Federal prison, including by collecting—

3 (A) demographic data on covered individ-
4 uals, including race, age, and sex; and

5 (B) data on employment and earnings of
6 covered individuals who have been denied em-
7 ployment, including the reasons for the denials;
8 and

9 (2) not later than 2 years after the date of en-
10 actment of this Act, and every 5 years thereafter,
11 submit a report that does not include any personally
12 identifiable information on the study conducted
13 under paragraph (1) to—

14 (A) the Committee on Homeland Security
15 and Governmental Affairs of the Senate;

16 (B) the Committee on Health, Education,
17 Labor, and Pensions of the Senate;

18 (C) the Committee on Oversight and Gov-
19 ernment Reform of the House of Representa-
20 tives; and

21 (D) the Committee on Education and the
22 Workforce of the House of Representatives.

○