

DISCUSSION DRAFT

117TH CONGRESS  
2D SESSION

**H. R. 8557**

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IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2022

Mr. CARTER of Louisiana (for himself and Mr. DAVIS) introduced the following bill;  
which was referred to the Committee on the Judiciary.

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**A BILL**

To amend federal law to create an expungement mechanism and a petition process for low-level violations of the Controlled Substances Act as it relates to marijuana, to study the impact of expungements ordered, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the Marijuana Misdemeanor Expungement Act.

3 **SEC. 2. DEFINITIONS.**

4 As used in this Act —

5 (a) **CRIMINAL JUSTICE AGENCY.** The term “criminal justice agency”  
6 means:

7 (1) a Federal or State court.

8 (2) a governmental agency or any subunit thereof that:

9 (A) performs the administration of criminal justice pursuant to a  
10 statute or executive order, and allocates a substantial part of its annual  
11 budget to the administration of criminal justice;

12 (B) is designated by Congress, the President, the Attorney General  
13 of the United States, the Federal Bureau of Investigation, or other  
14 appropriate Federal official, to perform centralized recordkeeping  
15 functions for official records, including the collection, storage,  
16 maintenance, updating, and dissemination of such records and  
17 responding to requests for information in or about such records; or

18 (C) is designated by the Governor or other appropriate executive  
19 official or the legislature of a State to perform centralized  
20 recordkeeping functions for official records, including the collection,  
21 storage, maintenance, updating, and dissemination of such records and  
22 responding to requests for information in or about such records.

23 (3) a Federal or State inspector general in his or her review of other  
24 criminal justice agencies.

1 (b) OFFICIAL RECORD. —

2 (1) The term “official record” means any documentation or other  
3 information on an individual, in electronic or physical form, consisting of  
4 identifiable descriptions or notations by criminal justice agencies about  
5 that individual, regarding:

6 (A) investigations (including questioning and searches and  
7 seizures) and arrests conducted by criminal justice agencies, as well  
8 as their decisions not to refer cases for prosecution or other legal  
9 proceedings;

10 (B) institution of legal proceedings by indictment, complaint,  
11 information, other formal criminal charge, summons or citation,  
12 juvenile certification (pursuant to 18 U.S.C. § 5032), or notice of civil  
13 penalty; and

14 (C) legal results or consequences of subsections (b)(1)(A) and  
15 (b)(1)(B) of this Section, including court-ordered detention, pretrial  
16 and post-trial release, diversion, non-prosecution or deferred  
17 prosecution, deferred adjudication, pleas (*e.g.*, not-guilty pleas, guilty  
18 pleas, and *nolo contendere*), *nolle prosequi*, competence findings,  
19 dismissal, acquittal, conviction, mistrial, juvenile adjudication,  
20 sentencing, correctional supervision, rehabilitation, probation, parole,  
21 release, and imposition of civil penalty.

22 (2) The term does not include identification information, such as  
23 fingerprint records, if such information does not indicate involvement of

1 the individual with an “expungable event” as defined by subsection (h) of  
2 this Section.

3 (c) EXPUNGE. The term “expunge” means to remove an official record  
4 and any references to it in any other official record (including an official  
5 index or list), except for publicly available court opinions and legal briefs.

6 (d) SEAL. The term “seal” means to store securely any expunged records  
7 possessed by the court issuing the expungement order to prevent access to  
8 such records except pursuant to Section 6 of this Act or by further order of  
9 the court.

10 (e) SEQUESTER. The term “sequester” means to retain an unaltered  
11 nonpublic copy of an expunged official record and any other official record  
12 (including an official index or list) subject to an expungement order, and to  
13 store such records in a separate, secure area to prevent access to those records  
14 except pursuant to Section 6 of this Act or by further order of the court  
15 issuing the expungement order.

16 (f) REDACT. The term “redact” means to remove or obscure from an  
17 official record any references to an expunged record, including, as necessary  
18 and consistent with subsection (b)(2) of this Section, any identifying  
19 information.

20 (g) MARIJUANA. The term “marijuana” means the substance defined as  
21 “marihuana” in section 102 of the Controlled Substances Act (21 U.S.C. §  
22 802(16)), and also defined or referred to as “marijuana” (*e.g.*, 18 U.S.C. §  
23 1791(d)(1)(B), 21 U.S.C. § 863(d)) and “tetrahydrocannabinols” (*e.g.*, 21  
24 U.S.C. § 812(c)).

1 (h) EXPUNGABLE EVENT. —

2 (1) The term “expungable event” means an investigation, arrest,  
3 initiation of legal proceedings, and any legal results or consequences, as  
4 defined by subsection (b)(1)(A)-(C) of this Section, for violating,  
5 attempting to violate, or conspiring to violate the following, as well as  
6 sentencing (including probation) and imposition of civil penalty pursuant  
7 to the following:

8 (A) section 401(b)(4) of the Controlled Substances Act (21 U.S.C.  
9 § 841(b)(4));

10 (B) section 402(c)(2) of the Controlled Substances Act (21 U.S.C.  
11 § 842(c)(2)), where the controlled substance was marijuana;

12 (C) section 404 of the Controlled Substances Act (21 U.S.C. §  
13 844(a)), where the controlled substance was marijuana;

14 (D) section 6486 of the Anti-Drug Abuse Act of 1988 (21 U.S.C.  
15 § 844a), where the controlled substance was marijuana;

16 (E) the Federal First Offender Act (18 U.S.C. § 3607), where the  
17 controlled substance was marijuana;

18 (F) the Assimilative Crimes Act (18 U.S.C. § 13), where the  
19 underlying act or omission involves marijuana, including marijuana-  
20 related drug paraphernalia (as defined by 21 U.S.C. § 863(d)), and  
21 results in a Federal misdemeanor or the imposition of a civil penalty;  
22 and

23 (G) any other Federal misdemeanor, petty offense, infraction, or  
24 civil penalty involving marijuana, including marijuana-related drug

1 paraphernalia, in which the conduct constituting the offense did not  
2 involve the use, attempted use, or threatened use of physical force  
3 against the person or property of another.

4 (2) To be considered an expungable event for purposes of Sections 3  
5 and 4 of this Act:

6 (A) at least one year must have passed since the date of the arrest  
7 or since the last docket entry in the case (except for technical or  
8 unrelated entries and other minor issues, as determined by the court),  
9 whichever is latest; and

10 (B) the court must not have been informed by the Attorney  
11 General of the United States, the United States Attorney for the  
12 relevant district, the Federal Bureau of Investigation, or another  
13 Federal criminal justice agency, that the case is ongoing or the  
14 individual has evaded prosecution.

15 **SEC. 3. COURT REVIEW FOR EXPUNGEMENT.**

16 (a) PROCEDURES. Not later than 1 year after the date of the enactment of  
17 this Act, the Chief Justice of the United States shall promulgate procedures or  
18 practices for the review, expungement, sealing, sequester, and redaction of  
19 official records pursuant to and consistent with the provisions of this Act, and  
20 to facilitate the study of such records pursuant to Section 6 of this Act. In  
21 determining such procedures or practices, the Chief Justice of the United  
22 States and his or her designees—including, at the discretion of the Chief  
23 Justice, the Administrative Office of the United States Courts, the Federal  
24 Judicial Center, and the Judicial Conference of the United States—may

1 consult with relevant entities, including the Attorney General of the United  
2 States and any agency (as defined by 18 U.S.C. § 6) within the United States  
3 Department of Justice (including the Federal Bureau of Investigation, the  
4 Drug Enforcement Agency, the Federal Bureau of Prisons, and the Office of  
5 the Pardon Attorney), representatives of the United States Sentencing  
6 Commission, representatives of the Federal Defenders Organizations,  
7 nonpartisan scholars and subject-matter experts, and, for purposes of Section  
8 6 of this Act, the Comptroller General of the United States.

9 (b) REVIEW. Not later than 2 years after the date of the enactment of this  
10 Act, each Federal district shall conduct a comprehensive review of its official  
11 records, pursuant to procedures or practices established under subsection (a)  
12 of this Section, and the court of that district shall issue an order expunging,  
13 sealing, and sequestering:

14 (1) each official record for an expungable event; and

15 (2) any other official record related to or referencing an expungable  
16 event, unless such other official record is for a felony or for a  
17 misdemeanor unrelated to marijuana, in which case the court shall redact  
18 from such other official record any reference to the expunged official  
19 record, and seal or order the sequester of an unaltered nonpublic copy of  
20 such other official record.

21 (c) NOTIFICATION OF EXPUNGEMENT.

22 (1) GOVERNMENT. Not later than 7 days after issuing an expungement  
23 order, to notify affected criminal justice agencies and to facilitate the

1 timely update of relevant records, the court shall send a copy of the final  
2 order to:

3 (A) the Attorney General of the United States, the United States  
4 Attorney for that district, and the relevant criminal justice agency (as  
5 defined by subsection (a)(2)(B) of Section 2 of this Act); and

6 (B) the relevant criminal justice agency (as defined by subsection  
7 (a)(2)(C) of Section 2 of this Act) that serves the jurisdiction in which  
8 the expungable event occurred or was obtained, ordered, or imposed  
9 (as the case may be), or if no such agency exists, the chief law  
10 enforcement officer of the State in which the expungable event  
11 occurred or was obtained, ordered, or imposed.

12 (2) INDIVIDUALS. —

13 (A) Pursuant to procedures or practices established under  
14 subsection (a) of this Section:

15 (i) notification about the expungement of an official record  
16 and the effect of such expungement shall be provided to the  
17 individual who is the subject of the expungement order; and/or

18 (ii) a reasonable process shall be available so that such  
19 individuals may inquire as to whether an official record has been  
20 expunged and, if so, the effect of such expungement.

21 (B) Upon motion or written request of an individual whose  
22 official record has been expunged pursuant to this Section, the court  
23 shall send a copy of the final order to:



1 (i) the relevant criminal justice agency (as defined by  
2 subsection (a)(2)(C) of Section 2 of this Act) that serves the  
3 jurisdiction in which the individual resides or, if no such agency  
4 exists, the chief law enforcement officer of the State in which the  
5 individual resides, when such criminal justice agency or chief law  
6 enforcement officer is different from those notified pursuant to  
7 subsection (c)(1)(B) of this Section.

8 (ii) any local law enforcement agency that serves the  
9 jurisdiction in which the individual resides.

10 (3) NO NEW RECORDS. A notification pursuant to this Section shall  
11 not be or become a publicly accessible record that identifies the  
12 individual who is the subject of the expungement order, and such  
13 notifications shall not be used by criminal justice agencies except for  
14 purposes of complying with this Act and court orders issued pursuant to  
15 it.

16 (d) APPEAL. Not later than 60 days after the issuance of an expungement  
17 order, the Attorney General of the United States and the United States  
18 Attorney for that district may appeal such order to the United States Circuit  
19 Court of Appeals for that district.

20 **SEC. 4. PETITIONING COURT FOR EXPUNGEMENT.**

21 (a) PETITION. Beginning on the date of enactment of this Act, any  
22 individual with respect to whom there is an official record for an expungable  
23 event may file a motion for expungement in the court for the Federal district  
24 in which the official record was entered. A petition filed *pro se* shall be

1 construed liberally so as to ensure substantial justice (*cf. Erickson v. Pardus*,  
2 551 U.S. 89, 94 (2007) (per curiam)).

3 (b) SERVICE AND RESPONSE. The clerk of the court shall serve that  
4 petition on the United States Attorney for that district. Not later than 60 days  
5 after service of such petition, the United States Attorney may submit a  
6 response to the Petitioner's motion.

7 (c) REPRESENTATION AND FEES. No fee shall be imposed for filing a  
8 petition in any proceeding provided for under this Section. If an indigent  
9 Petitioner submits a facially viable claim for expungement that nonetheless  
10 requires the assistance of legal counsel for purposes of filing a superseding  
11 petition, presenting evidence in support of the petition, or responding to the  
12 Government, counsel shall be appointed to represent the individual in  
13 proceedings under this Section.

14 (d) EVIDENCE, STANDARDS, AND ORDERS. —

15 (1) The Petitioner and the Government may file with the court  
16 relevant evidence relating to the petition. Notwithstanding any Federal  
17 rule of evidence or procedure, the court shall have discretion in admitting  
18 and evaluating the petition and any evidence submitted by a Petitioner  
19 *pro se* (*cf. Haines v. Kerner*, 404 U.S. 519, 520 (1972)).

20 (2) The Petitioner bears the initial burden to establish a prima facie  
21 case that the official record in question is for an expungable event, at  
22 which point the burden shifts to the Government to establish by a  
23 preponderance of the evidence that the official record is not for an

1 expungable event or the requirements for expungement have not been  
2 met.

3 (3) ORDERS. —

4 (A) If the Government fails to respond to the petition or fails to  
5 meet its burden under subsection (d)(2) of this Section, so long as the  
6 court does not find by a preponderance of the evidence that the  
7 interests of justice and of public safety weigh against expungement,  
8 the court shall enter an appropriate order for the expungement,  
9 sealing, sequester, and redaction of official records of the  
10 investigation, arrest, legal proceedings, and any legal results or  
11 consequences, as defined by as defined by subsection (b)(1)(A)-(C) of  
12 Section 2.

13 (B) In addition, the court may order the expungement, sealing,  
14 sequester, and redaction of any other official record referencing the  
15 expunged official record, unless such other official record is for a  
16 felony or for a misdemeanor unrelated to marijuana, in which case the  
17 court shall redact from such other official record any reference to the  
18 expunged official record, and seal or order the sequester of an  
19 unaltered nonpublic copy of such other official record.

20 (e) NOTIFICATION OF EXPUNGEMENT. —

21 (1) Not later than 7 days after granting an expungement petition, to  
22 facilitate the timely update of relevant records, the court shall send a copy  
23 of the petition and final order to:

1 (A) the Attorney General of the United States, the United States  
2 Attorney for that district, and the relevant criminal justice agency (as  
3 defined by subsection (a)(2)(B) of Section 2 of this Act); and

4 (B) the relevant criminal justice agency (as defined by subsection  
5 (a)(2)(C) of Section 2 of this Act) that serves the jurisdiction in which  
6 the expungable event occurred or was obtained, ordered, or imposed  
7 (as the case may be), or if no such agency exists, the chief law  
8 enforcement officer of the State in which the expungable event  
9 occurred or was obtained, ordered, or imposed.

10 (2) Upon motion or written request of a Petitioner whose  
11 expungement petition was granted, the court shall send a copy of the  
12 petition and final order to:

13 (A) the relevant criminal justice agency (as defined by subsection  
14 (a)(2)(C) of Section 2 of this Act) that serves the jurisdiction in which  
15 the Petitioner resides or, if no such agency exists, the chief law  
16 enforcement officer of the State in which the Petitioner resides, when  
17 such criminal justice agency or chief law enforcement officer is  
18 different from those notified pursuant to subsection (e)(1)(B) of this  
19 Section.

20 (B) any local law enforcement agency that serves the jurisdiction  
21 in which the Petitioner resides.

22 (3) Notifications pursuant to this subsection shall not be or become  
23 publicly accessible records about the expungable event, including  
24 information identifying the individual who is the subject of the

1 expungement order; and such notifications shall not be used by criminal  
2 justice agencies except for purposes of complying with this Act and court  
3 orders issued pursuant to it.

4 (f) APPEAL. Not later than 60 days after the issuance of an expungement  
5 order, the Attorney General of the United States and the United States  
6 Attorney for that district may appeal such order to the United States Circuit  
7 Court of Appeals for that district. Not later than 60 days after the denial of his  
8 or her petition, the Petitioner may appeal that denial to the United States  
9 Circuit Court of Appeals for that district.

#### 10 **SEC. 5. EFFECT OF EXPUNGEMENT.**

11 (a) IN GENERAL. An order of expungement shall restore the affected  
12 individual, in the contemplation of Federal law and consistent with  
13 subsection (d) of this Section, to the status he or she occupied before the  
14 investigation, arrest, legal proceedings, and any legal results or consequences,  
15 as defined by subsection (b)(1)(A)-(C) of Section 2, for which he or she is the  
16 subject of an expunged official record.

17 (b) SELF-DISCLOSURE. An individual who is the subject of an  
18 expungement order may treat the expunged official record of an  
19 investigation, arrest, legal proceedings, and any legal results or consequences,  
20 as defined by subsection (b)(1)(A)-(C) of Section 2, as if it never occurred or  
21 never was obtained, ordered, or imposed (as the case may be); and to the  
22 maximum extent Federal law may demand it, that individual shall not be held  
23 thereafter under any provision of law to be guilty of perjury, false swearing,

1 or making a false statement for failure to disclose, recite, or acknowledge  
2 such official record.

3 (c) DISQUALIFICATION. The fact that an individual has an official record,  
4 including a conviction, for an expungable event shall not operate as a  
5 disqualification under Federal law of such individual to pursue or engage in  
6 any lawful activity, occupation, or profession.

7 (d) LIMITATIONS. —

8 (1) Expungement under this Act does not include an official record  
9 for a felony or for a misdemeanor unrelated to marijuana, and such  
10 official record may be accessed, with any redactions, pursuant to this Act  
11 or by further order of the court issuing the expungement order.

12 (2) Nothing in this Act is intended to create a right to compensation,  
13 restitution, or any other monetary damages.

14 (e) COMPLIANCE.

15 (1) This Act and courts orders issued pursuant to it shall apply to:

16 (A) criminal justice agencies in the Federal government.

17 (B) other Federal agencies in possession of expunged documents  
18 or related official documents.

19 (C) State criminal justice agencies subject to Federal law, due to  
20 the powers delegated to the Federal government by the Constitution  
21 of the United States, due to voluntary agreement of the relevant State,  
22 and/or due to that State's acceptance of relevant Federal funding:

23 (i) where such Federal law may include (but is not limited to):

24 (I) section 9101 of title 5, United States Code;

1 (II) section 922 of title 18, United States Code;

2 (III) section 103 of the Brady Handgun Violence  
3 Prevention Act (National Instant Criminal Background Check  
4 System, 18 U.S.C. § 922 note);

5 (IV) section 534 of title 28, United States Code;

6 (V) the Omnibus Crime Control and Safe Streets Act of  
7 1968 (34 U.S.C. §§ 10101 *et seq.* (Justice System  
8 Improvement));

9 (VI) section 210304 of the Violent Crime Control and Law  
10 Enforcement Act of 1994 (34 U.S.C. § 12592);

11 (VII) the National Child Protection Act of 1993 (34 U.S.C.  
12 §§ 40101 *et seq.*);

13 (VIII) the Crime Identification Technology Act of 1998  
14 (34 U.S.C. §§ 40301 *et seq.*);

15 (IX) the National Criminal History Access and Child  
16 Protection Act (34 U.S.C. §§ 40311 *et seq.*);

17 (X) section 4 of the Katie Sepich Enhanced DNA  
18 Collection Act of 2012 (34 U.S.C. § 40743);

19 (XI) the NICS Improvement Amendments Act of 2007 (34  
20 U.S.C. §§ 40902 *et seq.*);

21 (XII) sections 0.85(j) and 50.12 of title 28, Code of  
22 Federal Regulations (or any successor regulations);

23 (XIII) parts 20, 23, 25(A), of title 28, Code of Federal  
24 Regulations (or any successor regulations); and

1 (ii) where such Federal law and its application are consistent  
2 with relevant decisions of the Supreme Court of the United States,  
3 including (to the extent binding precedents of the Supreme Court):  
4 *South Dakota v. Dole*, 483 U.S. 203 (1987); *New York v. United*  
5 *States*, 505 U.S. 144 (1992); *Printz v. United States*, 521 U.S. 898  
6 (1997); *Reno v. Condon*, 528 U.S. 141 (2000); *National*  
7 *Federation of Independent Business v. Sebelius*, 567 U.S. 519  
8 (2012); and *Murphy v. National Collegiate Athletic Association*,  
9 584 U.S. \_\_\_, 138 S. Ct. 1461 (2018).

10 (D) Any consumer credit agency (as defined by 15 U.S.C. §  
11 1681a(f)) subject to the Fair Credit Reporting Act (15 U.S.C. §§ 1681  
12 *et seq.*).

13 (2) An individual or entity covered by subsection (e)(1) of this  
14 Section:

15 (A) shall comply with a court order issued pursuant to this section  
16 and, to the extent possible, conform their official records to be  
17 consistent with such order;

18 (B) shall respond to any inquiries as though the expunged official  
19 record does not exist; or, in the case of another official record subject  
20 to an expungement order and consistent with subsection (b)(2) of  
21 Section 2, subsection (b)(2) of Section 3, and subsection (d)(3)(B) of  
22 Section 4, shall respond as though that other official record does not  
23 reference the expunged official record; and



1 (C) shall not disseminate, use internally, or reveal the existence of  
2 expunged records for any purpose, except as authorized under this Act  
3 or by further order of the court issuing the expungement order.

4 **SEC. 6. ACCESS, STUDY, AND SUPPORT.**

5 (a) ACCESS. Any expungement of an individual's official record for an  
6 expungable event or any related sealing, sequester, and redaction of relevant  
7 official records pertaining to that individual, may be made available only:

8 (1) to that individual or to such individual's designated agent.

9 (2) to the Chief Justice of the United States and his or her designees  
10 (including for support under subsection (c)(1) of this Section).

11 (3) to the Comptroller General of the United States and his or her  
12 designees (including for support under subsection (c)(2) of this Section)  
13 for purposes of conducting the study described in subsection (b) of this  
14 Section.

15 (4) to a criminal justice agency (as defined by subsection (a) of  
16 Section 2), for the exclusive purpose of:

17 (A) maintaining accurate official records.

18 (B) investigating or prosecuting an individual or for conducting a  
19 background check on an individual who has applied for employment  
20 by such criminal justice agency, but only when the relevant official  
21 record is for a felony or for a misdemeanor unrelated to marijuana,  
22 and such record has appropriate redactions of any reference to official  
23 records expunged pursuant to this Act.

1 (5) to the United States Department of Justice's Office of Justice  
2 Programs (and its units or subunits), and to qualified academic  
3 researchers from relevant schools and centers at accredited non-profit  
4 universities and colleges, for purpose of research, evaluative, or statistical  
5 activities pursuant to an agreement with the Chief Justice of the United  
6 States and his or her designees (including the Administrative Office of the  
7 United States Courts) that specifically authorizes access to the  
8 information, limits the use of the information to research, evaluative, or  
9 statistical purposes, and ensures the confidentiality and security of the  
10 information consistent with this Act and with Federal law.

11 (b) STUDY. The Comptroller General of the United States, in consultation  
12 with the United States Secretary of Health and Human Services, shall  
13 conduct a study of investigation, arrests, legal proceedings, and any legal  
14 results or consequences, as defined by subsection (b)(1)(A)-(C) of Section 2,  
15 for Federal marijuana-related misdemeanors, petty offenses, infractions, and  
16 civil penalties.

17 (1) DEMOGRAPHICS. Such study shall include information about the  
18 age, race, ethnicity, sex, and gender identity of those individuals with an  
19 official record for an expungable event, as well as information about the  
20 type of community such individuals dwell in and such other demographic  
21 information as the Comptroller General determines should be included.

22 (2) REPORT. Not later than 2 years after the date of the enactment of  
23 this Act, the Comptroller General of the United States shall report to  
24 Congress the results of the study conducted under this subsection. In

1 consultation with the Chief Justice of the United States, the Comptroller  
2 General of the United States shall also report to Congress on the  
3 implementation of this Act, including issues relevant to future  
4 expungement efforts (*e.g.*, expungement of Federal marijuana-related  
5 felonies, expungement of Federal offenses for other controlled  
6 substances, models for automatic record-clearing and for general  
7 expungement).

8 (c) SUPPORT. In addition to Federal funding and other resources afforded  
9 for staffing and implementation of this Act:

10 (1) at the discretion of the Chief Justice of the United States and his or  
11 her designees (which may include the court for the relevant district) and  
12 pursuant to rules and procedures established by the Chief Justice, legal  
13 researchers and law students from eligible non-profit law schools  
14 accredited by the American Bar Association, as well as academic  
15 researchers and students from other relevant schools and centers at  
16 accredited non-profit colleges and universities, may be retained  
17 (including on a pro bono basis) to conduct research and provide other  
18 support for the implementation of this Act.

19 (2) at the discretion of the Comptroller General of the United States  
20 and his or her designees and pursuant to rules and procedures established  
21 by the Comptroller General, legal researchers and law students from  
22 eligible non-profit law schools accredited by the American Bar  
23 Association, as well as academic researchers and students from other  
24 relevant schools and centers at accredited non-profit colleges and

1 universities, may be retained (including on a pro bono basis) to conduct  
2 research and provide other support for the study described in subsection  
3 (b) of this Section.

4 **SEC. 7. PARDON REFERRAL.**

5 After issuing an order of expungement under Section 3 or Section 4 of  
6 this Act, upon a finding of good cause, the court may refer the case or  
7 petition to the President of the United States and his or her designees (which  
8 may include the Office of the Pardon Attorney, notwithstanding 28 C.F.R.  
9 Part 1 (Executive Clemency)), for consideration consistent with the authority  
10 granted to the President under Article II, Section 2 of the Constitution of the  
11 United States.

12 **SEC. 8. INAPPLICABILITY.**

13 The Administrative Procedure Act (5 U.S.C. §§ 551 *et seq.*) and the  
14 Federal Advisory Committee Act (5 U.S.C. App. 2 §§ 1 *et seq.*) shall not  
15 apply to this Act and to orders or other actions taken pursuant to it.

16 **SEC. 9. INTERPRETATION AND SEVERABILITY.**

17 (a) Nothing in this Act should be construed to preempt or supersede the  
18 laws of any State with respect to its authority to define and enforce the  
19 criminal law of that State, or with respect to any power reserved to the States  
20 respectively, or to the people, or with respect to the rights guaranteed to each  
21 citizen, under the Constitution of the United States. This Act does not annul,  
22 alter, or affect, or exempt any person subject to this Act from complying  
23 with, the laws of any State, except to the extent that those laws are  
24 inconsistent with the provisions of this Act, and then only to the extent of the

1 inconsistency and of Federal supremacy on that issue. This Act shall not in  
2 any way abridge or alter the remedies now existing at common law or by  
3 statute, but consistent with subsection (d)(2) of Section 5 of this Act, the  
4 provisions of this Act are in addition to such remedies.

5 (b) If any provision of this Act or the application thereof to any person or  
6 circumstance is held invalid, the remainder of this Act, or the application of  
7 that provision to persons or circumstances other than those as to which it is  
8 held invalid, is not affected thereby.