

Marijuana Misdemeanor Expungement Act

In the ongoing debate over federal marijuana law, criminal justice reforms have concentrated on felonies due to the seriousness of the charges and accompanying punishments. This felony focus overlooks the problems facing those with records for misdemeanors and other low-level violations of federal marijuana law, which often carry collateral consequences that overshadow any official punishment. Depending on the jurisdiction, misdemeanor marijuana convictions have restricted educational aid, housing assistance, occupational licenses, driver’s licenses, even foster parenting. In most jurisdictions, employers can deny job offers or promotions based on marijuana misdemeanor convictions, even old ones—and in some places, employment can be denied based on a misdemeanor marijuana *arrest* without an ensuing conviction.

To this day, the federal system generates scores of arrests, legal proceedings, and adjudications for low-level marijuana-related offenses. Although the raw number of federal cases may be small compared to those in the states, the impact of federal misdemeanors can be just as grave as the effect of state misdemeanors—and unlike the practice in many states, federal misdemeanors stay on people’s records for a lifetime. When it comes to official records, even presidential clemency may not provide complete relief (*see, e.g., OLC 2006, CRS 2016, CRS 2020*), since the courts have [concluded](#) “[t]he power to pardon is an executive prerogative of mercy, not of judicial record-keeping.” Only Congress can remove these petty badges of dishonor from the official records, increasing lawful opportunities for affected people and building upon similar actions in the states.

The following draft text provides an approach to expunging federal marijuana-related misdemeanors and other petty offenses and civil penalties that is comprehensive, coherent, efficient, and just without threatening public safety. The drafting drew heavily from current federal law (*e.g., 18 U.S.C. §3607, 34 U.S.C. §§ 40311 et seq.*), past or pending congressional bills (*e.g., H.R. 6667, H.R. 6129, H.R. 5977, H.R. 4020, H.R. 3617*), and important secondary works (*e.g., the [Model Law on Non-Conviction Records](#)*).

After defining key terms in Section 2, the proposed statutory language creates a two-stage expungement mechanism for low-level violations of federal marijuana law: an automatic, systemwide court-led review and expungement of qualifying cases under Section 3; and a case-by-case review of unexpunged cases as they are brought by individual petitioners under Section 4.

The effect of expungement is spelled out in Section 5, which details the beneficial relief for affected individuals along with the requirements and basis for compliance of various actors, including State and local government and private providers of criminal records. Section 6 delimits those who may access expunged records, including the beneficiaries of an expungement order and approved entities that study the law and its implementation.

In appropriate cases, Section 7 allows the court to make referrals to the President (via the U.S. Pardon Attorney) for clemency consideration, while Section 8 ensures that potential statutory impediments do not apply (*e.g., the Administrative Procedure Act*). Finally, Subsection 9 contains a savings clause and a severability clause for purposes of interpretation and implementation.

Ultimately, the draft text seeks to provide relief through an expedited, orderly process that clears the deck of non-felony marijuana offenses lingering in the federal system. Along the way, the draft scheme seeks to capture whatever lessons can be drawn for future efforts—relief for federal marijuana-related felonies and federal offenses for other controlled substances, for instance, and the prospect of automatic record-clearing and general expungement provisions—thereby offering a national symbol of reform that also sets the stage for further informed congressional relief and may serve as a model for adaptation in the states.

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Pardoned for Federal Marijuana Offenses

DRAFT TEXT

SECTION 1. SHORT TITLE.

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

SEC. 2. DEFINITIONS.

As used in this Act —

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

(1) a Federal or State court.

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

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

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

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

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

(b) **OFFICIAL RECORD.** —

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

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

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

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

(2) The term does not include identification information, such as fingerprint records, if such information does not indicate involvement of the individual with an “expungable event” as defined by subsection (h) of this Section.

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

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

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

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

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

(h) EXPUNGABLE EVENT. —

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

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

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

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

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

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

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

(G) any other Federal misdemeanor, petty offense, infraction, or civil penalty involving marijuana, including marijuana-related drug paraphernalia, in which the conduct constituting the offense did not involve the use, attempted use, or threatened use of physical force against the person or property of another.

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

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

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

SEC. 3. COURT REVIEW FOR EXPUNGEMENT.

(a) PROCEDURES. Not later than 1 year after the date of the enactment of this Act, the Chief Justice of the United States shall promulgate procedures or practices for the review, expungement, sealing, sequester, and redaction of official records pursuant to and consistent with the provisions of this Act, and to facilitate the study of such records pursuant to Section 6 of this Act. In determining such procedures or practices, the Chief Justice of the United States and his or her designees—including, at the discretion of the Chief Justice, the Administrative Office of the United States Courts, the Federal Judicial Center, and the Judicial Conference of the United States—may consult with relevant entities, including the Attorney General of the United States and any agency (as defined by 18 U.S.C. § 6) within the United States Department of Justice (including the Federal Bureau of Investigation, the Drug Enforcement Agency, the Federal Bureau of Prisons, and the Office of the Pardon Attorney), representatives of the United States Sentencing Commission, representatives of the Federal Defenders Organizations, nonpartisan scholars and subject-matter experts, and, for purposes of Section 6 of this Act, the Comptroller General of the United States.

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

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

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

(c) NOTIFICATION OF EXPUNGEMENT.

(1) GOVERNMENT. Not later than 7 days after issuing an expungement order, to notify affected criminal justice agencies and to facilitate the timely update of relevant records, the court shall send a copy of the final order to:

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

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

(2) INDIVIDUALS. —

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

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

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

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

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

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

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

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

SEC. 4. PETITIONING COURT FOR EXPUNGEMENT.

(a) PETITION. Beginning on the date of enactment of this Act, any individual with respect to whom there is an official record for an expungable event may file a motion for expungement in the court for the Federal district in which the official record was entered. A petition filed *pro se* shall be construed liberally so as to ensure substantial justice (*cf. Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)).

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

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

(d) EVIDENCE, STANDARDS, AND ORDERS. —

(1) The Petitioner and the Government may file with the court relevant evidence relating to the petition. Notwithstanding any Federal rule of evidence or procedure, the court shall have discretion in

admitting and evaluating the petition and any evidence submitted by a Petitioner *pro se* (cf. *Haines v. Kerner*, 404 U.S. 519, 520 (1972)).

(2) The Petitioner bears the initial burden to establish a prima facie case that the official record in question is for an expungable event, at which point the burden shifts to the Government to establish by a preponderance of the evidence that the official record is not for an expungable event or the requirements for expungement have not been met.

(3) ORDERS. —

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

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

(e) NOTIFICATION OF EXPUNGEMENT. —

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

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

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

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

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

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

(3) Notifications pursuant to this subsection shall not be or become publicly accessible records about the expungable event, including information identifying the individual who is the subject of the expungement order; and such notifications shall not be used by criminal justice agencies except for purposes of complying with this Act and court orders issued pursuant to it.

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

SEC. 5. EFFECT OF EXPUNGEMENT.

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

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

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

(d) LIMITATIONS. —

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

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

(e) COMPLIANCE.

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

(A) criminal justice agencies in the Federal government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 6. ACCESS, STUDY, AND SUPPORT.

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

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

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

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

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

(A) maintaining accurate official records.

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

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

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

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

(2) **REPORT.** Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report to Congress the results of the study conducted under this subsection. In consultation with the Chief Justice of the United States, the Comptroller General of the United States shall also report to Congress on the implementation of this Act, including issues relevant to future expungement efforts (*e.g.*, expungement of Federal marijuana-related felonies, expungement of Federal offenses for other controlled substances, models for automatic record-clearing and for general expungement).

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

(1) at the discretion of the Chief Justice of the United States and his or her designees (which may include the court for the relevant district) and pursuant to rules and procedures established by the Chief Justice, legal researchers and law students from eligible non-profit law schools accredited by the American Bar Association, as well as academic researchers and students from other relevant schools

and centers at accredited non-profit colleges and universities, may be retained (including on a pro bono basis) to conduct research and provide other support for the implementation of this Act.

(2) at the discretion of the Comptroller General of the United States and his or her designees and pursuant to rules and procedures established by the Comptroller General, legal researchers and law students from eligible non-profit law schools accredited by the American Bar Association, as well as academic researchers and students from other relevant schools and centers at accredited non-profit colleges and universities, may be retained (including on a pro bono basis) to conduct research and provide other support for the study described in subsection (b) of this Section.

SEC. 7. PARDON REFERRAL.

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

SEC. 8. INAPPLICABILITY.

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

SEC. 9. INTERPRETATION AND SEVERABILITY.

(a) Nothing in this Act should be construed to preempt or supersede the laws of any State with respect to its authority to define and enforce the criminal law of that State, or with respect to any power reserved to the States respectively, or to the people, or with respect to the rights guaranteed to each citizen, under the Constitution of the United States. This Act does not annul, alter, or affect, or exempt any person subject to this Act from complying with, the laws of any State, except to the extent that those laws are inconsistent with the provisions of this Act, and then only to the extent of the inconsistency and of Federal supremacy on that issue. This Act shall not in any way abridge or alter the remedies now existing at common law or by statute, but consistent with subsection (d)(2) of Section 5 of this Act, the provisions of this Act are in addition to such remedies.

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