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(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

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

To improve the governmental process for recommending applications for clemency, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Ms. PRESSLEY introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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

To improve the governmental process for recommending applications for clemency, 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 “Fair and Independent  
5 Experts in Clemency Act” or the “FIX Clemency Act”.

6 **SEC. 2. ESTABLISHMENT OF U.S. CLEMENCY BOARD.**

7 (a) IN GENERAL.—There is established an inde-  
8 pendent board to be known as the “U.S. Clemency Board”  
9 (in this Act referred to as the “Board”).

1 (b) DUTIES.—

2 (1) IN GENERAL.—The duties of the Board  
3 shall be to—

4 (A) recommend individuals for clemency  
5 directly to the President;

6 (B) make available applications for clem-  
7 ency in English and Spanish;

8 (C) review applications for any person con-  
9 victed of a Federal offense or experiencing Fed-  
10 eral collateral consequences requesting a par-  
11 don, commutation, remission of a fine or for-  
12 feiture or restoration of civil and political  
13 rights, not later than 18 months after submis-  
14 sion of such application;

15 (D) maintain public statistics and records  
16 of all acts of clemency granted by each Presi-  
17 dent;

18 (E) compile research reports on relevant  
19 subjects;

20 (F) transmit an annual report to Congress  
21 outlining the Board's activities, feedback from  
22 applicants, and recommendations disaggregated  
23 by relevant characteristics, including age, gen-  
24 der identity, race and ethnicity, sexual orienta-  
25 tion, disability, type of offense, years served,

1 and geographical location of the individual ap-  
2 plying for clemency; and

3 (G) establish a process for applicants  
4 whose applications are not recommended to the  
5 President to petition for reconsideration by the  
6 full Board after rejection by a panel.

7 (2) PRIORITY.—In carrying out the duties  
8 under paragraph (1), the Board shall seek guidance  
9 from the President on any priority factors for re-  
10 viewing applications. Any selected priority factors  
11 shall be included in the annual report under section  
12 7.

13 (c) POWER TO COMPEL.—The Board may request  
14 any Federal agency or Federal judicial officer to disclose  
15 information, data, and reports related to any application  
16 being considered for clemency. The Federal agency or  
17 Federal judicial officer shall fully disclose all relevant in-  
18 formation, data, and reports, including presentence re-  
19 ports, subject to any restrictions in accordance with the  
20 law.

21 (d) ADMISSION OF GUILT.—The Board shall not re-  
22 quire any applicant to admit guilt as a condition of rec-  
23 ommendation for pardon, commutation, remission of a  
24 fine or forfeiture or restoration of civil and political rights.  
25 Any admission of guilt in an application may not be used

1 against an applicant in any way nor is such admission ad-  
2 missible in a court of law.

3 (e) DEFINITIONS.—In this section:

4 (1) CLEMENCY.—The term “clemency” includes  
5 a full pardon, partial or full commutation of sen-  
6 tence, or remission of a fine or forfeiture or restora-  
7 tion of civil and political rights.

8 (2) FEDERAL OFFENSE.—The term “Federal  
9 offense” includes any offense under Federal statute  
10 or the Uniform Code of Military Justice.

11 **SEC. 3. MEMBERSHIP.**

12 (a) BOARD COMPOSITION.—The Board shall be com-  
13 posed of 9 members possessing significant experience with  
14 the criminal legal system, clemency, behavioral health, or  
15 reentry services appointed by the President, including—

16 (1) an individual who was formerly incarcerated;  
17

18 (2) an individual who has been directly im-  
19 pacted by crime;

20 (3) an individual who has previously served or  
21 currently serves in a Federal defender organization;  
22 and

23 (4) an individual who shall serve as representa-  
24 tive of the Department of Justice.

1 (b) INDEPENDENT MEMBERS.—To be a member ap-  
2 pointed pursuant to subsection (a), except subsection  
3 (a)(4), the member shall have or have had no affiliation  
4 with the Department of Justice in the 16 years prior to  
5 such appointment.

6 (c) TERMS.—

7 (1) IN GENERAL.—Members of the Board may  
8 serve throughout the presidency of the President  
9 who appointed them.

10 (2) VACANCY.—Any vacancy of the Board shall  
11 not affect the powers and duties of the Board. The  
12 President shall have the authority to fill a vacancy  
13 on the Board.

14 (3) REAPPOINTMENT.—A member of the Board  
15 shall be eligible for reappointment to the Board.

16 (d) CHAIRPERSON.—The Chairperson of the Board  
17 shall be designated by the President after all members are  
18 appointed to the Board.

19 (e) PANELS.—The Board may convene panels of 3  
20 Board members to review applications and recommend in-  
21 dividuals for clemency if 2 of the Board members on the  
22 panel are in favor of such recommendation.

23 (f) MAJORITY.—The Board shall require a majority  
24 of members present and voting to approve actions of the  
25 Board.

1 (g) PROHIBITION OF COMPENSATION OF FEDERAL  
2 EMPLOYEES.—Members of the Board who are full-time  
3 officers and employees of the United States may not re-  
4 ceive additional pay, allowances, or benefits by reason of  
5 their service on the Board.

6 (h) COMPENSATION OF NON-FEDERAL EMPLOY-  
7 EES.—Members of the Board who are not full-time offi-  
8 cers and employees of the United States shall each be paid  
9 at a rate equal to the rate of basic pay for level IV of  
10 the Executive Schedule by the Executive Office of the  
11 President.

12 (i) TRAVEL EXPENSES.—Each member of the Board  
13 shall receive travel expenses, including per diem in lieu  
14 of subsistence, in accordance with applicable provisions  
15 under subchapter I of chapter 57 of title 5, United States  
16 Code.

17 (j) MEETINGS.—The Board shall meet at the call of  
18 the Chairperson not less than once a quarter each year  
19 to conduct business.

1 **SEC. 4. ABOLITION OF OFFICE OF THE PARDON ATTORNEY;**  
2 **TRANSFER OF FUNCTIONS AND PERSONNEL**  
3 **OF THE OFFICE OF THE PARDON ATTORNEY**  
4 **TO THE BOARD.**

5 (a) ABOLITION.—The Office of the Pardon Attorney  
6 of the Department of Justice shall be abolished not later  
7 than 120 days after the date of enactment of this Act.

8 (b) TRANSFER OF FUNCTIONS.—The functions of the  
9 Office of the Pardon Attorney shall be transferred to and  
10 carried out by the Board. The functions authorized to be  
11 performed by the office described in subsection (a) as of  
12 the day before the date of enactment of this Act, and the  
13 assets and personnel associated with such functions, are  
14 transferred to the Board.

15 (c) GRADE RETENTION.—In the case of an employee  
16 transferred to the Board under subsection (b), whether a  
17 full-time or part-time employee—

18 (1) subsections (b) and (c) of section 5362 of  
19 title 5, United States Code, relating to grade reten-  
20 tion, shall apply to the employee, except that—

21 (A) the grade retention period shall be the  
22 one-year period beginning on the date of the  
23 transfer; and

24 (B) paragraphs (1), (2), and (3) of such  
25 subsection (c) shall not apply to the employee;  
26 and

1           (2) the employee may not be separated, other  
2           than pursuant to chapter 75 of title 5, United States  
3           Code, during such one-year period.

4           (d) ADMINISTRATIVE HEAD.—The Board established  
5           under section 2 shall appoint, in consultation with the At-  
6           torney General, a Pardon Attorney to act as the adminis-  
7           trative head of the Board. Such Pardon Attorney shall re-  
8           port to the Board and be paid by the Executive Office  
9           of the President.

10          (e) REFERENCES.—Any reference in any other Fed-  
11          eral law, executive order, rule, regulation, delegation of au-  
12          thority, or any document—

13                 (1) to the head of the Office of the Pardon At-  
14          torney is deemed to be the Pardon Attorney ap-  
15          pointed by the Board established under section 2, in  
16          consultation with the Attorney General, to act as the  
17          administrative head of the Board; or

18                 (2) to the Office of the Pardon Attorney is  
19          deemed to refer to the Board.

20          (f) EXERCISE OF AUTHORITIES.—Except as other-  
21          wise provided by law, the Board may, for the purposes  
22          of performing the functions of the Office of the Pardon  
23          Attorney, exercise all authorities under any provision of  
24          law that were available with respect to the performance



1 of the function immediately before the effective date of  
2 the transfer of the function under this section.

3 (g) SAVINGS PROVISIONS.—

4 (1) LEGAL DOCUMENTS.—All orders, deter-  
5 minations, rules, regulations, permits, grants, loans,  
6 contracts, agreements, certificates, licenses, and  
7 privileges—

8 (A) that have been issued, made, granted,  
9 or allowed to become effective by the President  
10 or any other Government official, or by a court  
11 of competent jurisdiction, in the performance of  
12 any function that is transferred by this Act,  
13 and

14 (B) that are in effect on the effective date  
15 of such transfer (or become effective after such  
16 date pursuant to their terms as in effect on  
17 such effective date),

18 shall continue in effect according to their terms until  
19 modified, terminated, superseded, set aside, or re-  
20 voked in accordance with law by the President, any  
21 other authorized Government official, a court of  
22 competent jurisdiction, or operation of law.

23 (2) PROCEEDINGS.—This Act shall not affect  
24 any proceedings or any application for any benefits,  
25 service, license, permit, certificate, or financial as-

1       sistance pending on the date of the enactment of  
2       this Act before an office abolished by this Act, but  
3       such proceedings and applications shall be contin-  
4       ued. Orders shall be issued in such proceedings, ap-  
5       peals shall be taken therefrom, and payments shall  
6       be made pursuant to such orders, as if this Act had  
7       not been enacted, and orders issued in any such pro-  
8       ceeding shall continue in effect until modified, termi-  
9       nated, superseded, or revoked by a duly authorized  
10      official, by a court of competent jurisdiction, or by  
11      operation of law. Nothing in this subsection shall be  
12      considered to prohibit the discontinuance or modi-  
13      fication of any such proceeding under the same  
14      terms and conditions and to the same extent that  
15      such proceeding could have been discontinued or  
16      modified if this Act had not been enacted.

17           (3) SUITS.—This Act shall not affect suits com-  
18      menced before the date of the enactment of this Act,  
19      and in all such suits, proceeding shall be had, ap-  
20      peals taken, and judgments rendered in the same  
21      manner and with the same effect as if this Act had  
22      not been enacted.

23           (4) NONABATEMENT OF ACTIONS.—No suit, ac-  
24      tion, or other proceeding commenced by or against  
25      the Department of Justice, or by or against any in-

1       dividual in the official capacity of such individual as  
2       an officer or employee of an office transferred by  
3       this Act, shall abate by reason of the enactment of  
4       this Act.

5           (5) CONSTANCE OF SUITS.—If any Government  
6       officer in the official capacity of such officer is party  
7       to a suit with respect to a function of the officer,  
8       and under this Act such function is transferred to  
9       any other officer or office, then such suit shall be  
10      continued with the other officer or the head of such  
11      other office, as applicable, substituted or added as a  
12      party.

13          (6) ADMINISTRATIVE PROCEDURE AND JUDI-  
14      CIAL REVIEW.—Except as otherwise provided by this  
15      Act, any statutory requirements relating to notice,  
16      hearings, action upon the record, or administrative  
17      or judicial review that apply to any function trans-  
18      ferred by this Act shall apply to the exercise of such  
19      function by the head of the Federal agency, and  
20      other officers of the agency, to which such function  
21      is transferred by this Act.

22          (h) TRANSFER OF ASSETS.—Except as otherwise  
23      provided in this Act, so much of the personnel, property,  
24      records, and unexpended balances of appropriations, allo-  
25      cations, and other funds employed, used, held, available,

1 or to be made available in connection with a function  
2 transferred to an official or agency by this Act shall be  
3 available to the official or the head of that agency, respec-  
4 tively, at such time or times as the Director of the Office  
5 of Management and Budget directs for use in connection  
6 with the functions transferred.

7 (i) DELEGATION AND ASSIGNMENT.—Except as oth-  
8 erwise expressly prohibited by law or otherwise provided  
9 in this Act, an official to whom functions are transferred  
10 under this Act (including the head of any office to which  
11 functions are transferred under this Act) may delegate  
12 any of the functions so transferred to such officers and  
13 employees of the office of the official as the official may  
14 designate, and may authorize successive redelegations of  
15 such functions as may be necessary or appropriate. No  
16 delegation of functions under this section or under any  
17 other provision of this Act shall relieve the official to whom  
18 a function is transferred under this Act of responsibility  
19 for the administration of the function.

20 (j) AUTHORITY OF THE DIRECTOR OF THE OFFICE  
21 OF MANAGEMENT AND BUDGET WITH RESPECT TO  
22 FUNCTIONS TRANSFERRED.—

23 (1) DETERMINATIONS.—If necessary, the Di-  
24 rector shall make any determination of the functions  
25 that are transferred under this Act.

1           (2) INCIDENTAL TRANSFERS.—The Director, at  
2           such time or times as the Director shall provide,  
3           may make such determinations as may be necessary  
4           with regard to the functions transferred by this Act,  
5           and to make such additional incidental dispositions  
6           of personnel, assets, liabilities, grants, contracts,  
7           property, records, and unexpended balances of ap-  
8           propriations, authorizations, allocations, and other  
9           funds held, used, arising from, available to, or to be  
10          made available in connection with such functions, as  
11          may be necessary to carry out the provisions of this  
12          Act. The Director shall provide for the termination  
13          of the affairs of all entities terminated by this Act  
14          and for such further measures and dispositions as  
15          may be necessary to effectuate the purposes of this  
16          Act.

17          (k) CERTAIN VESTING OF FUNCTIONS CONSIDERED  
18          TRANSFERS.—For purposes of this Act, the vesting of a  
19          function in a department or office pursuant to reestablish-  
20          ment of an office shall be considered to be transfer of the  
21          function.

22          (l) AVAILABILITY OF EXISTING FUNDS.—Existing  
23          appropriations and funds available for the performance of  
24          functions, programs, and activities terminated pursuant to  
25          this Act shall remain available, for the duration of their

1 period of availability, for necessary expenses in connection  
2 with the termination and resolution of such functions, pro-  
3 grams, and activities.

4 (m) DEFINITIONS.—In this section:

5 (1) FUNCTION.—The term “function” includes  
6 any duty, obligation, power, authority, responsibility,  
7 right, privilege, activity, or program; and

8 (2) OFFICE.—The term “office” includes any  
9 office, administration, agency, bureau, institute,  
10 council, unit, organizational entity, or component  
11 thereof.

12 **SEC. 5. FEDERAL ADVISORY COMMITTEE.**

13 The Federal Advisory Committee Act (5 U.S.C. App.)  
14 shall not apply to the Board established pursuant to this  
15 Act.

16 **SEC. 6. ADEQUATE REPRESENTATION OF DEFENDANTS.**

17 Section 3006A(a)(2)(B)) of title 18, United States  
18 Code is amended by striking “seeking relief under” and  
19 inserting “seeking relief from their conviction or sentence,  
20 including pursuant to”.

21 **SEC. 7. REPORT.**

22 Not later than 90 days after the date on which the  
23 Board is established, the Chairperson of the Board shall  
24 submit to Congress a report on the established procedures  
25 for review of clemency applications and administrative

1 plans related to research and any other actions the Board  
2 will be taking. This report shall include a plan for address-  
3 ing pending applications, which may include augmentation  
4 of staff through temporary hire or assignment to the  
5 Board.

6 **SEC. 8. REPORT ON U.S. ATTORNEY CHARGING AND PLEA**  
7 **PRACTICES.**

8 Not later than two years after the date of enactment  
9 of this Act, the Director of the National Institute of Jus-  
10 tice shall complete a review and publish a report on the  
11 charging and plea bargaining practices of U.S. Attorneys'  
12 Offices, including racial and gender disparities. The Direc-  
13 tor may consult with the Department of Justice Office of  
14 the Inspector General to secure any information necessary  
15 to complete this report.

16 **SEC. 9. REPORT ON PSYCHOLOGICAL IMPACT OF INCAR-**  
17 **CERATION.**

18 Not later than one year after the date of enactment  
19 of this Act, the Director of the National Institute of Jus-  
20 tice shall publish a report summarizing the current body  
21 of research on the psychological impact of people who are  
22 incarcerated. This report shall be completed in coordina-  
23 tion with at least 2 individuals who have published peer-  
24 reviewed scholarship or have expertise on this topic.

1 **SEC. 10. SEVERABILITY.**

2       If any application of this Act or any provision of this  
3 Act to any person or circumstance is held invalid, the re-  
4 mainder of this Act and the application of this Act to other  
5 persons and circumstances shall not be affected by the in-  
6 validity.