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

INTRODUCED THE FOLLOWING BILL; WHICH WAS READ TWICE AND REFERRED TO THE COMMITTEE ON ____________________

A BILL

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

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Smart Sentencing Ad-
justments Act”.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,
SEC. 2. GRANT PROGRAM.

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

“PART PP—STATE PRISON POPULATION REDUCTION GRANT PROGRAM.

“SECTION 3061. DEFINITIONS.

“In this part:

“(1) Implementation Grant.—The term ‘implementation grant’ means a grant awarded to a State for the purpose of reducing the prison population of the State by not less than 20 percent, based on the average total prison population of the State for the 3-year period preceding the date on which the State applies for the implementation grant under section 3062(d).

“(2) Planning Grant.—The term ‘planning grant’ means a grant awarded to a State for the purpose of—

“(A) analyzing criminal justice trends and factors to better understand excessive and unnecessary prison incarceration; and

“(B) exploring the feasibility of developing, adopting, and implementing policy changes to ameliorate criminal justice trends and factors
causing excessive and unnecessary prison incarceration.

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

“(4) STATE.—The term ‘State’ has the meaning given the term in section 901.

“SEC. 3062. GRANT PROGRAM.

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

“(b) PLANNING GRANTS.—

“(1) APPLICATIONS.—A State seeking a planning grant under this section shall submit to the Attorney General an application at such time and in such manner as the Attorney General may require, which shall include—

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

“(B) a description of the activities the State will carry out with the planning grant.
“(2) Use of Funds.—A State that receives a planning grant under this section shall use the grant solely for the purpose of developing plans for the policy changes that would be required to carry out subsection (c)(3).

“(3) Planning Grant Report.—Not later than 60 days after the end of the period of the planning grant of a State, the State shall submit to the Attorney General a report that describes—

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

“(B) any additional information determined appropriate by the Attorney General.

“(c) Implementation Grants.—

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

“(2) Applications.—A State seeking an implementation grant under this section shall submit to the Attorney General an application at such time and in such manner as the Attorney General may require, which shall include—
“(A) the total prison population of the State, including racial, ethnic, gender, and socioeconomic information of the population and information relating to the income, education, and housing status of the population;

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

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

“(i) is based upon the activities the State performed with a planning grant received under this section; and

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

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

“(A) reduce the prison population of the State by—
“(i) establishing or supporting programs that divert individuals from incarceration;

“(ii) eliminating policies, with a retroactive effect, that drive excessive and unnecessarily lengthy terms of imprisonment, including by—

“(I) repealing mandatory minimum penalties for certain offenses;

“(II) repealing sentencing enhancements for certain offenses; and

“(III) downgrading certain criminal offenses, such as reducing felony offenses to misdemeanor offenses;

“(iii) implementing policies, with a retroactive effect, that help promote proportionality and fairness in sentencing, including by—

“(I) capping sentences; and

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

“(iv) implementing policies, with a retroactive effect, that increase opportunities for early release, including by—
“(I) expanding opportunities and incentives for incarcerated individuals to earn time off of their custodial sentence;

“(II) repealing policies that restrict or reduce parole eligibility, such as truth in sentencing laws; and

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

“(v) reducing or eliminating the use of incarceration as a sanction for non-criminal rule violations of community supervision, such as technical parole and probation violations, including missing drug treatment classes;

“(vi) improving the executive functions of the State that can promote early release by—

“(I) establishing or expanding the use of mechanisms providing for the early release of incarcerated individuals based on specific criteria, such as advanced age and terminal illness, by—
“(aa) convening or staffing boards of experts to advise officials of the State with the authority to promulgate sentencing policy on the exercise of the State’s compassionate, medical, and geriatric release power;

“(bb) broadening eligibility criteria for release;

“(cc) streamlining and clarifying application for release review protocols; and

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

“(II) improving clemency processes, including by—

“(aa) convening or staffing boards of experts to advise officials of the State with the authority to promulgate sentencing policy on the exercise of the State’s clemency power;

“(bb) broadening eligibility for clemency;
“(cc) streamlining and clarifying clemency application review protocols; and

“(dd) increasing the number of clemency grants;

“(vii) improving prosecutorial functions to correct extreme, disproportionate, unjust, or wrongful criminal convictions and custodial sentences by—

“(I) establishing or expanding conviction integrity units or conviction review units within prosecutorial offices that work to prevent, identify, and remedy false convictions; or

“(II) establishing or expanding sentencing review units within prosecutorial offices to address overcrowding, racial inequities, and lengthy prison sentences that are considered extreme or disproportionate; and

“(viii) improving the quality of indigent defense; or

“(B) reduce the recurrence of recidivism after a term of incarceration and reduce the
collateral consequences experienced by individuals with criminal records by—

“(i) expanding programming for incarcerated populations within prisons that enables those populations to successfully transition back into society;

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

“(iii) adopting laws prohibiting employers from asking applicants about their criminal history on applications for employment or prior to tendering an employment offer;

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

“(I) discharging any fine or fee debt for individuals who are incarcerated or exiting prison; or

“(II) developing policies and programs to assess fines and fees based on an individual’s ability to pay;

“(v) establishing or supporting wrap-around or community-based services for individuals reentering their communities after incarceration, including services relat-
ing to housing, disability, employment, education, healthcare, behavior and mental health, substance abuse, and childcare; or

“(vi) supporting community-based crime prevention programs that work directly with formerly incarcerated individuals or in communities that have a higher prevalence of individuals with criminal records, such as—

“(I) programs involving violence prevention;

“(II) housing and supportive housing;

“(III) jobs and job placement;

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

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

“(4) IMPLEMENTATION GRANT REPORT.—Not later than 1 year after the date on which a State receives an implementation grant under this section, and annually thereafter, the State shall submit to the Attorney General a report, at such time, in such
manner, and containing such information as the Attorney General may require, that—

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

“(B) assesses racial, ethnic, gender, age, and socioeconomic impacts of the programs and policies funded with the grant with independent researchers or a consortium of independent researchers, such as research or academic institutions; and

“(C) includes an evaluation of increases or decreases in a State’s prison population by assessing changes in—

“(i) pretrial detention;

“(ii) sentencing;

“(iii) incarceration;

“(iv) probation;

“(v) parole;

“(vi) clemency; and

“(vii) compassionate, medical, or geriatric release.

“(5) SUBGRANTS.—

“(A) IN GENERAL.—A State receiving an implementation grant under this section shall use not less than 20 percent of the amount of
the grant to award subgrants to nonprofit organizations that meet the criteria described in subparagraph (B), which shall assist in the implementation of the policy changes described in subsection (c)(2).

“(B) CRITERIA.—In selecting nonprofit organizations to receive subgrants under paragraph (1), a State shall give priority to nonprofit organizations that—

“(i) have a demonstrated track record of providing services to reintegrate individuals released from prison into society with a goal of reducing the recurrence of recidivism;

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

“(iii) are led by or employ individuals who have been incarcerated or have family members who are or have been incarcerated; or

“(iv) primarily serve individuals who—

“(I) have been arrested or convicted of a criminal offense; or
“(II) have spent time in jail, prison, or on probation or parole.

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

“(d) TERMS AND CONDITIONS.—

“(1) DURATION.—

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

“(B) IMPLEMENTATION GRANT.—An implementation grant under this section shall be awarded for a period of 3 fiscal years.

“(2) AMOUNT.—

“(A) PLANNING GRANT.—The amount of each planning grant awarded under this section shall not exceed $700,000 for the duration of the grant.
“(B) IMPLEMENTATION GRANT.—The amount of each implementation grant awarded under this section shall not exceed $70,000,000 for the duration of the grant.

“(3) NUMBER OF GRANT AWARDS.—

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

“(B) IMPLEMENTATION GRANTS.—The Attorney General may award implementation grants under this section to no more than 25 States during each fiscal year.

“(4) PROHIBITIONS.—

“(A) INMATE TRANSFERS.—During any grant term under this Act, a State may not transfer an individual convicted of a criminal offense with a sentence of not less than 1 year from a prison of the State to any penitentiary, jail, or other institution or facility for the confinement of individuals convicted of criminal offenses with sentences of less than 1 year for the purpose of carrying out subsection (c)(3).

“(B) POLICIES.—During the term of any grant awarded under this section, a State that
receives the grant may not establish or amend any—

“(i) sentence enhancement or law that would increase the punishment of an individual previously convicted of a criminal offense;

“(ii) habitual offender law or law that imposes longer sentences on individuals who have been convicted of a certain number of criminal offenses;

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

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

“(v) policies that would result in increased incarceration.

“(C) PROHIBITIONS.—A State receiving any grant under this part may not use amounts from the grant to—
“(i) build or maintain any prison, jail, or other facility designed for the confinement of individuals convicted of criminal offenses;

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

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

“(iv) purchase law enforcement equipment; or

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

“(5) PENALTY.—If the Attorney General determines that a State receiving a grant under this section violates a provision of this part, the Attorney General shall—

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

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

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

“(A) not more than 1 planning grant; and
“(B) not more than 2 consecutive implementation grants.

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

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

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