

117TH CONGRESS  
2D SESSION

# H. R. 8557

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

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2022

Mr. CARTER of Louisiana (for himself and Mr. RODNEY DAVIS of Illinois) 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 process to petition for expungement for low-level violations of the Controlled Substances Act as it relates to marijuana, to study the impact of expungements issued, 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 “Marijuana Mis-  
5 demeanor Expungement Act”.

6 **SEC. 2. DEFINITIONS.**

7 (a) DEFINITIONS.—As used in this section:

1 (1) CRIMINAL JUSTICE AGENCY.—The term  
2 “criminal justice agency” means—

3 (A) a Federal or State court;

4 (B) a governmental agency or any subunit  
5 thereof that—

6 (i) performs the administration of  
7 criminal justice pursuant to a statute or  
8 Executive order, and allocates a substan-  
9 tial part of its annual budget to the admin-  
10 istration of criminal justice;

11 (ii) is designated by Congress, the  
12 President, the Attorney General of the  
13 United States, the Federal Bureau of In-  
14 vestigation, or other appropriate Federal  
15 official, to perform centralized record-  
16 keeping functions for official records, in-  
17 cluding the collection, storage, mainte-  
18 nance, updating, and dissemination of such  
19 records and responding to requests for in-  
20 formation in or about such records; or

21 (iii) is designated by the Governor or  
22 other appropriate executive official or the  
23 legislature of a State to perform central-  
24 ized recordkeeping functions for official  
25 records, including the collection, storage,

1 maintenance, updating, and dissemination  
2 of such records and responding to requests  
3 for information in or about such records;  
4 and

5 (C) a Federal or State inspector general in  
6 his or her review of other criminal justice agen-  
7 cies.

8 (2) OFFICIAL RECORD.—

9 (A) The term “official record” means any  
10 documentation or other information on an indi-  
11 vidual, in electronic or physical form, consisting  
12 of identifiable descriptions or notations by  
13 criminal justice agencies about that individual,  
14 regarding—

15 (i) detection activities, investigations  
16 (including police questioning and searches  
17 and seizures), and arrests conducted by  
18 criminal justice agencies, as well as their  
19 decisions not to refer cases for legal pro-  
20 ceedings;

21 (ii) institution of legal proceedings by  
22 indictment, complaint, information, other  
23 formal criminal charge, summons or cita-  
24 tion, and notice of civil penalty; and

(iii) legal results or consequences of clauses (i) and (ii), 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 civil penalty.

(B) 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 (a)(8).

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

(4) SEAL.—The term “seal” means to store securely any expunged records possessed by the court issuing the expungement order to prevent access to

1 such records except pursuant to subsection (e) or by  
2 further order of the court.

3 (5) SEQUESTER.—The term “sequester” means  
4 to retain an unaltered nonpublic copy of an official  
5 record and any other record or index subject to an  
6 expungement order, and to store such records in a  
7 separate, secure area to prevent access to those  
8 records except pursuant to subsection (e) or by fur-  
9 ther order of the court issuing the expungement  
10 order.

11 (6) REDACT.—The term “redact” means to re-  
12 move or obscure from an official record any ref-  
13 erences to an expunged record, including, as nec-  
14 essary and consistent with subsection (a)(2)(B), any  
15 identifying information.

16 (7) MARIJUANA.—The term “marijuana”  
17 means the substance defined as “marihuana” in 21  
18 U.S.C. 802(16) and also defined or referred to as  
19 “marijuana” (e.g., 18 U.S.C. 1791(d)(1)(B), 21  
20 U.S.C. 863(d)) and “tetrahydrocannabinols” (e.g.,  
21 21 U.S.C. 812(c)).

22 (8) EXPUNGABLE EVENT.—

23 (A) The term “expungable event” means  
24 an arrest, the initiation of legal proceedings,  
25 and any legal results or consequences, as de-

1            fined by subsection (a)(2)(A)(i)–(iii), for vio-  
2            lating, attempting to violate, or conspiring to  
3            violate the following, as well as sentencing (in-  
4            cluding probation) and imposition of civil pen-  
5            alty pursuant to the following:

6                    (i) 21 U.S.C. 841(b)(4).

7                    (ii) 21 U.S.C. 842(c)(2), where the  
8                    controlled substance was marijuana.

9                    (iii) 21 U.S.C. 844(a), where the con-  
10                    trolled substance was marijuana.

11                    (iv) 21 U.S.C. 844a, where the con-  
12                    trolled substance was marijuana.

13                    (v) 18 U.S.C. 13, where the under-  
14                    lying act or omission involves marijuana,  
15                    including marijuana-related drug para-  
16                    phernalia (as defined by 21 U.S.C. 863),  
17                    and results in a Federal misdemeanor or  
18                    civil penalty.

19                    (vi) 18 U.S.C. 3607, where the con-  
20                    trolled substance was marijuana.

21                    (vii) Any other Federal misdemeanor,  
22                    petty offense, infraction, or civil penalty in-  
23                    volving marijuana, including marijuana-re-  
24                    lated drug paraphernalia, in which the con-  
25                    duct constituting the offense did not in-

1                    involve the use, attempted use, or threatened  
2                    use of physical force against the person or  
3                    property of another.

4                    (B) To be considered an expungable event  
5                    for purposes of subsections (b) and (c)—

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

12                   (ii) the court must not have been in-  
13                   formed by the Attorney General of the  
14                   United States, the United States Attorney  
15                   for the relevant district, the Federal Bu-  
16                   reau of Investigation, or another Federal  
17                   criminal justice agency, that the case is on-  
18                   going or the individual has evaded prosecu-  
19                   tion.

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

21                   (a) PROCEDURES.—Not later than 1 year after the  
22                   date of the enactment of this section, the Chief Justice  
23                   of the United States shall promulgate procedures or prac-  
24                   tices for the review, expungement, sealing, sequester, and  
25                   redaction of official records pursuant to and consistent

1 with this section, and to facilitate the study of such  
2 records pursuant to subsection (e). In determining such  
3 procedures or practices, the Chief Justice of the United  
4 States and his or her designees—which, at the discretion  
5 of the Chief Justice, may include the Administrative Office  
6 of the United States Courts, the Federal Judicial Center,  
7 and the Judicial Conference of the United States—may  
8 consult with relevant entities, including the Attorney Gen-  
9 eral of the United States and his or her designees (includ-  
10 ing Federal Bureau of Prisons and any agency, as defined  
11 by 18 U.S.C. 6, within the United States Department of  
12 Justice), representatives of the United States Sentencing  
13 Commission, representatives of the Federal Defenders Or-  
14 ganizations, nonpartisan scholars and subject-matter ex-  
15 perts, and, for purposes of subsection (e), the Comptroller  
16 General of the United States and his or her designees.

17 (b) REVIEW.—Not later than 2 years after the date  
18 of the enactment of this section, each Federal district shall  
19 conduct a comprehensive review and issue an order  
20 expunging, sealing, and sequestering—

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

22 and

23 (2) other official record(s) related to or ref-  
24 erencing an expungable event, unless such other offi-  
25 cial record is for or related to a felony or a mis-



demeanor 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)(1)(B)(ii)); and

(B) the relevant criminal justice agency (as defined by subsection (a)(1)(B)(iii)) that serves the jurisdiction in which the expungable event occurred or, if no such agency exists, the chief law enforcement officer of the State in which the expungable event occurred.

(2) INDIVIDUALS.—

(A) Pursuant to procedures or practices established under subsection (b)(1)—

1 (i) notification about the expungement  
2 of official record(s) and the effect of such  
3 expungement shall be provided to individ-  
4 uals whose arrest, legal proceedings, and  
5 any legal results or consequences, as de-  
6 fined by subsection (a)(2)(A)(i)–(iii), have  
7 been expunged; and/or

8 (ii) a reasonable process shall be  
9 available so that such individuals may in-  
10 quire as to whether an arrest, legal pro-  
11 ceedings, and any legal results or con-  
12 sequences have been expunged and, if so,  
13 the effect of such expungement.

14 (B) Upon motion or written request of an  
15 individual whose arrest, legal proceedings, and  
16 any legal results or consequences, as defined by  
17 subsection (a)(2)(A)(i)–(iii), have been ex-  
18 punged pursuant to this subsection, the court  
19 shall send a copy of the final order to—

20 (i) the relevant criminal justice agency  
21 (as defined by subsection (a)(1)(B)(iii))  
22 that serves the jurisdiction in which the in-  
23 dividual resides or, if no such agency ex-  
24 ists, the chief law enforcement officer of

1                   the State in which the individual resides;  
2                   and  
3                   (ii) any local law enforcement agency  
4                   that serves the jurisdiction in which the in-  
5                   dividual resides.

6                   (3) NO NEW RECORDS.—Any notifications pur-  
7                   suant to paragraphs (1) and (2) shall not be or be-  
8                   come publicly accessible records that identify the in-  
9                   dividual subject of the expungement order, and such  
10                  notifications shall not be used by criminal justice  
11                  agencies except for purposes of complying with this  
12                  section and court orders issued pursuant to it.

13               (d) APPEAL.—The Attorney General of the United  
14               States and the United States Attorney for the district  
15               from which the expungement order was issued may appeal  
16               an order, within 60 days of its issuance, to the United  
17               States Circuit Court of Appeals for that district.

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

19               (a) PETITION.—At any point after the date of enact-  
20               ment of this section, any individual with an official record  
21               for an expungable event may file a motion for  
22               expungement in the court for the Federal district in which  
23               the arrest, legal proceedings, and any legal results or con-  
24               sequences, as defined by subsection (a)(2)(A)(i)–(iii), was  
25               obtained. A petition filed pro se shall be construed liberally

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

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

8 (c) REPRESENTATION AND FEES.—No fee shall be  
9 imposed for filing a petition in any proceeding provided  
10 for under this subsection. If an indigent Petitioner sub-  
11 mits a facially viable claim for expungement that nonethe-  
12 less requires the assistance of legal counsel for purposes  
13 of filing a superseding petition, presenting evidence in sup-  
14 port of the petition, or responding to the Government,  
15 counsel shall be appointed to represent the individual in  
16 proceedings under this subsection.

17 (d) EVIDENCE AND STANDARD OF PROOF.—The Pe-  
18 titioner and the Government may file with the court rel-  
19 evant evidence relating to the petition. Notwithstanding  
20 any Federal rule of evidence or procedure, the court shall  
21 have discretion in admitting and evaluating the petition  
22 and any evidence submitted by a Petitioner pro se (cf.  
23 *Haines v. Kerner*, 404 U.S. 519, 520 (1972)). The Peti-  
24 tioner bears the initial burden to establish a prima facie  
25 case that the official record in question is for an

1 expungable event, at which point the burden shifts to the  
2 Government to establish by a preponderance of the evi-  
3 dence that the official record is not for an expungable  
4 event or the requirements for expungement have not been  
5 met. If the Government fails to meet this burden, or if  
6 the Government fails to respond to the petition, the court  
7 shall enter an appropriate expungement order unless it  
8 finds by a preponderance of the evidence that the interests  
9 of justice and of public safety weigh against expungement.

10 (e) EXPUNGEMENT ORDER.—If required under this  
11 section, the court shall order the expungement, sealing,  
12 sequester, and redaction of official records of the arrest,  
13 legal proceedings, and any legal results or consequences,  
14 as defined by subsection (a)(2)(A)(i)–(iii). The court may  
15 also order the expungement, sealing, sequester, and redac-  
16 tion of another official record related to or referencing an  
17 expungable event, unless such other official record is for  
18 or related to a felony or a misdemeanor unrelated to mari-  
19 juana, in which case the court shall redact from such other  
20 official record any reference to the expunged official  
21 record, and seal or order the sequester of an unaltered  
22 nonpublic copy of such other official record.

23 (f) NOTIFICATION OF EXPUNGEMENT.—

24 (1) Not later than 7 days after granting an  
25 expungement petition, to facilitate the timely update

1 of relevant records, the court shall send a copy of  
2 the petition and final order to—

3 (A) the Attorney General of the United  
4 States, the United States Attorney for that dis-  
5 trict, and the relevant criminal justice agency  
6 (as defined by subsection (a)(1)(B)(ii)); and

7 (B) the relevant criminal justice agency (as  
8 defined by subsection (a)(1)(B)(iii)) that serves  
9 the jurisdiction in which the expungable event  
10 occurred or, if no such agency exists, the chief  
11 law enforcement officer of the State in which  
12 the expungable event occurred.

13 (2) Upon motion or written request of a Peti-  
14 tioner whose expungement petition was granted, the  
15 court shall send a copy of the petition and final  
16 order to—

17 (A) the relevant criminal justice agency (as  
18 defined by subsection (a)(1)(B)(iii)) that serves  
19 the jurisdiction in which the Petitioner resides  
20 or, if no such agency exists, the chief law en-  
21 forcement officer of the State in which the Peti-  
22 tioner resides, when such criminal justice agen-  
23 cy or chief law enforcement officer is different  
24 from those notified pursuant to subsection  
25 (c)(6)(A)(ii)); and

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

4 (3) Notifications pursuant to this subsection  
5 shall not be or become publicly accessible records  
6 about the expungable event, including information  
7 identifying the individual subject of the expungement  
8 order; and such notifications shall not be used by  
9 criminal justice agencies except for purposes of com-  
10 plying with this section and court orders issued pur-  
11 suant to it.

12 (g) APPEAL.—The Attorney General of the United  
13 States and the United States Attorney for the district in  
14 which the expungement order was issued may appeal an  
15 order within 60 days of its issuance to the United States  
16 Circuit Court of Appeals for that district. Within 60 days  
17 of the denial of his or her petition, the Petitioner may  
18 appeal that denial to the United States Circuit Court of  
19 Appeals for that district.

20 **SEC. 5. EFFECT OF EXPUNGEMENT.**

21 (a) IN GENERAL.—An order of expungement shall re-  
22 store the affected individual, in the contemplation of the  
23 law, to the status he or she occupied before such arrest,  
24 legal proceedings, and any legal results or consequences,

1 as defined by subsection (a)(2)(A)(i)–(iii), for an  
2 expungable event.

3 (b) SELF-DISCLOSURE.—An affected individual may  
4 treat the expunged arrest, legal proceedings, and any legal  
5 results or consequences, as defined by subsection  
6 (a)(2)(A)(i)–(iii), as if it never occurred and shall not be  
7 held thereafter under any provision of law to be guilty of  
8 perjury, false swearing, or making a false statement for  
9 failure to disclose, recite, or acknowledge such official  
10 record.

11 (c) DISQUALIFICATION.—The fact that an individual  
12 has an official record, including a conviction, for an  
13 expungable event shall not operate as a disqualification  
14 of such individual to pursue or engage in any lawful activ-  
15 ity, occupation, or profession.

16 (d) LIMITATIONS.—

17 (1) Expungement under this section does not  
18 include an official record of conduct constituting a  
19 felony or a misdemeanor unrelated to marijuana,  
20 and such official record may be accessed, with any  
21 redactions, pursuant to this section or by further  
22 order of the court issuing the expungement order.

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



1 (e) COMPLIANCE.—

2 (1) This section and courts orders issued pursu-  
3 ant to it shall apply to—

4 (A) criminal justice agencies in the Federal  
5 Government;

6 (B) other Federal agencies in possession of  
7 expunged documents or related official docu-  
8 ments;

9 (C) State criminal justice agencies subject  
10 to Federal law, due to the powers delegated to  
11 the Federal Government by the Constitution of  
12 the United States, due to voluntary agreement  
13 of the relevant State, and/or due to that State's  
14 acceptance of relevant Federal funding—

15 (i) where such Federal law may in-  
16 clude in relevant part: 28 CFR 0.85(j); 28  
17 CFR part 20 (Criminal Justice Informa-  
18 tion Systems); 28 CFR part 23 (Criminal  
19 Intelligence Systems Operating Policies);  
20 28 CFR part 25(A) (The National Instant  
21 Criminal Background Check System); 28  
22 CFR 50.12 (Exchange of FBI identifica-  
23 tion records); 5 U.S.C. 9101; 18 U.S.C.  
24 922; 28 U.S.C. 534; 34 U.S.C. chapter  
25 101 (Justice System Improvement); 34

1 U.S.C. chapter 403 (Criminal Justice  
2 Identification, Information, and Commu-  
3 nication); 34 U.S.C. chapter 409 (National  
4 Instant Criminal Background Check Sys-  
5 tem); 34 U.S.C. chapter 411 (Access to  
6 Criminal History and Identification  
7 Records); 34 U.S.C. 40102; 34 U.S.C.  
8 40743; 34 U.S.C. 12592(d); and

9 (ii) where such Federal law and its  
10 application are consistent with relevant de-  
11 cisions of the Supreme Court of the United  
12 States, including: *South Dakota v. Dole*,  
13 483 U.S. 203 (1987); *New York v. United*  
14 *States*, 505 U.S. 144 (1992); *Printz v.*  
15 *United States*, 521 U.S. 898 (1997); *Reno*  
16 *v. Condon*, 528 U.S. 141 (2000); *National*  
17 *Federation of Independent Business v.*  
18 *Sebelius*, 567 U.S. 519 (2012); and *Mur-*  
19 *phy v. National Collegiate Athletic Associa-*  
20 *tion*, 138 S. Ct. 1461 (2018); and

21 (D) any consumer credit agency (as de-  
22 fined by 15 U.S.C. 1681a(f)) subject to the  
23 Fair Credit Reporting Act, 15 U.S.C. 1681 et  
24 seq.

(2) Individuals, agencies, and other entities or organizations covered by subsection (d)(4)(A)—

(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 records do not exist; and

(C) shall not disseminate, use internally, or reveal the existence of expunged records for any purpose, except as authorized under this section 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 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 (e)(3)(A));

(3) to the Comptroller General of the United States and his or her designees (including for sup-

1 port under subsection (e)(3)(B)) for purposes of  
2 conducting the study described in subsection (e)(3);

3 (4) to a criminal justice agency (as defined by  
4 subsection (a)(1)), for the exclusive purpose of—

5 (A) maintaining accurate official records;

6 and

7 (B) investigating or prosecuting an indi-  
8 vidual or for conducting a background check on  
9 an individual who has applied for employment  
10 by such criminal justice agency, but only when  
11 the relevant official record is of conduct consti-  
12 tuting a felony or a misdemeanor unrelated to  
13 marijuana and such record has appropriate  
14 redactions of any reference to official records  
15 expunged pursuant to this section; and

16 (5) to the United States Department of Jus-  
17 tice's Office of Justice Programs (and its units or  
18 subunits), and to qualified academic researchers  
19 from relevant schools and centers at accredited non-  
20 profit universities and colleges, for purpose of re-  
21 search, evaluative, or statistical activities pursuant  
22 to an agreement with the Chief Justice of the  
23 United States and his or her designees (including  
24 the Administrative Office of the United States  
25 Courts) that specifically authorizes access to the in-

1       formation, limits the use of the information to re-  
2       search, evaluative, or statistical purposes, and in-  
3       sures the confidentiality and security of the informa-  
4       tion consistent with this section and with Federal  
5       law.

6       (b) STUDY.—The Comptroller General of the United  
7       States, in consultation with the United States Secretary  
8       of Health and Human Services, shall conduct a study of  
9       arrests, legal proceedings, and any legal results or con-  
10      sequences, as defined by subsection (a)(2)(A)(i)–(iii), for  
11      Federal marijuana-related misdemeanors, petty offenses,  
12      infractions, and civil penalties.

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

21           (2) REPORT.—Not later than 2 years after the  
22      date of the enactment of this section, the Comp-  
23      troller General of the United States shall report to  
24      Congress the results of the study conducted under  
25      this subsection. In consultation with the Chief Jus-

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

9        (c) SUPPORT.—In addition to Federal funding and  
10      other resources afforded for staffing and implementation  
11      of this section—

12            (1) at the discretion of the Chief Justice of the  
13      United States and his or her designees (including  
14      the court for the district at issue) and pursuant to  
15      rules and procedures established by the Chief Jus-  
16      tice, legal researchers and law students from eligible  
17      nonprofit law schools accredited by the American  
18      Bar Association, as well as academic researchers and  
19      students from other relevant schools and centers at  
20      accredited nonprofit colleges and universities, may  
21      be retained (including on a pro bono basis) to con-  
22      duct research and provide other support for the im-  
23      plementation of this section; and

24            (2) at the discretion of the Comptroller General  
25      of the United States and his or her designees and

1       pursuant to rules and procedures established by the  
2       Comptroller General, legal researchers and law stu-  
3       dents from eligible nonprofit law schools accredited  
4       by the American Bar Association, as well as aca-  
5       demic researchers and students from other relevant  
6       schools and centers at accredited nonprofit colleges  
7       and universities, may be retained (including on a pro  
8       bono basis) to conduct research and provide other  
9       support for the study described in subsection (e)(2).

10 **SEC. 7. PARDON REFERRAL.**

11       After issuing an order of expungement under sub-  
12       section (b) or subsection (c), upon a finding of good cause,  
13       the court may refer the case or petition to the President  
14       of the United States and his or her designees (including  
15       the Pardon Attorney of the United States, notwith-  
16       standing 28 CFR part 1 (Executive Clemency)), for review  
17       consistent with the authority granted to the President  
18       under article II, section 2 of the Constitution of the  
19       United States.

20 **SEC. 8. INAPPLICABILITY.**

21       The Administrative Procedure Act, 5 U.S.C. 551 et  
22       seq., and the Federal Advisory Committee Act, 5 U.S.C.  
23       Appendix, shall not apply to this section and to orders or  
24       other actions taken pursuant to it.

1 **SEC. 9. INTERPRETATION AND SEVERABILITY.**

2 (a) Nothing in this section should be construed to  
3 preempt or supersede the laws of any State with respect  
4 to its authority to define and enforce the criminal law of  
5 that State, or with respect to any power reserved to the  
6 States respectively, or to the people, or to any citizen as  
7 a right, under the Constitution of the United States. This  
8 section does not annul, alter, or affect, or exempt any per-  
9 son subject to this section from complying with, the laws  
10 of any State, except to the extent that those laws are in-  
11 consistent with the provisions of this section, and then  
12 only to the extent of the inconsistency. This section shall  
13 not in any way abridge or alter the remedies now existing  
14 at common law or by statute, but consistent with sub-  
15 section (d)(3)(B), the provisions of this section are in ad-  
16 dition to such remedies.

17 (b) If any provision of this section or the application  
18 thereof to any person or circumstance is held invalid, the  
19 remainder of this section, or the application of that provi-  
20 sion to persons or circumstances other than those as to  
21 which it is held invalid, is not affected thereby.

22 **SEC. 10. EFFECTIVE DATE.**

23 This Act and the amendments made by this Act shall  
24 take effect 180 days after the date of enactment of this  
25 Act.

