



VIRTUAL CONGRESS OF THE UNITED STATES OF AMERICA

April 24, 2020

Proposed by: Senator Miller (D-KY)

Co-Sponsors: Senator Seryne (R-MA-2)

AN ACT

To require Non-Federal prisons holding prisoners or detainees under a contract with the Government to make the same information available to the public that Federal prisons are required to make available.

Section 1. Short title

This Act may be cited as the "Non-Federal Prison Information Act".

Section 2. Definitions

In this Act—

(1) the term “non-Federal prison, correctional, or detention facility” means—

(A) a privately owned or privately operated prison, correctional, or detention facility; or

(B) a State or local prison, jail, or other correctional facility.

Section 3.

(a) In General.—A record relating to a non-Federal **prison**, correctional, or detention facility shall be—

(1) considered an agency record, whether in the possession of an applicable entity or a covered agency; and

(2) subject to section 552 of title 5, United States Code (commonly known as the “Freedom of Information Act”), to the same extent as if the record was maintained by an agency operating a Federal **prison**, correctional, or detention facility.

(b) Withholding Of Information.—A covered agency may not withhold information that would otherwise be required to be disclosed under subsection (a) unless,

(1) the covered agency, based on the independent assessment of the covered agency, reasonably foresees that disclosure of the information would cause specific identifiable harm to an interest protected by an exemption from disclosure.

(c) Format Of Records.—An applicable entity shall maintain records relating to a non-Federal **prison**, correctional, or detention facility in formats that are readily reproducible and reasonably searchable by the covered agency that contracts with provides funds to the applicable entity to incarcerate or detain Federal **prisoners** or detainees in the non-Federal **prison**, correctional, or detention facility.

(d) Regulations.—

(1) Not later than 2 months after the date of enactment of this Act, a covered agency shall initiate regulations or guidance to ensure compliance with this section by the covered agency and an applicable entity that the covered agency contracts with or provides funds to incarcerate or detain Federal **prisoners** or detainees in a non-Federal **prison**, correctional, or detention facility.

(2) COMPLIANCE.

(A) IN GENERAL.—Compliance with this section by an applicable entity shall be included as a material term in any contract, agreement, or renewal of a contract or agreement with the applicable entity regarding the incarceration or detention of Federal **prisoners** or detainees in a non-Federal **prison**, correctional, or detention facility.

(B) Rule Of Construction. Nothing in this Act shall be construed to limit or reduce the scope of State or local open records laws.