



Summary of Revised *First Step Act*

Updates and additions to [S. 3649](#)

Addresses Points Raised by Law Enforcement Advocates

The update includes new provisions and exclusions to address each of the five points raised in their November 15, 2018, letter. Specifically, the package:

- Excludes 924(c) firearm offenders from earning time credits.
- Excludes fentanyl traffickers from earning time credits.
- Limits supervised release by specifying that only low and minimum risk offenders are permitted to be transferred to supervised release if all other eligibility criteria are met and specifying that, in any case, a prisoner may only be placed in supervised release for a period 12 months or less. Also specifies that if a prisoner violates a condition of his or her prerelease custody, and the violation is nontechnical in nature, the Director of the Bureau of Prisons shall revoke the prisoner's prerelease custody.
- Original text of the bill already excluded sex offenders.
- Removes the inadequacy of criminal history provision in Section 402 that previously gave judges additional discretion at sentencing if they specified in writing why the seriousness of a defendant's criminal history or risk of recidivism was overrepresented.

Specifically Excludes Additional Offenses from Receiving Earned Time Credits

The *First Step Act* incentivizes prisoners to participate in evidence-based programming designed to reduce recidivism. It sets up a risk and needs assessment programs that classifies prisoners according to their risk. Low and minimum risk prisoners have an opportunity to earn time credits to allow them to serve a limited part of their sentence in prerelease custody. In addition, the First Step Act also makes ineligible prisoners who have been convicted of a lengthy list of offenses, many of which would otherwise have been categorized as medium or high risk prisoners, and who would not have been able to use earned time credits anyway. The update augments the list of disqualifying offenses to include:

- Smuggling aliens into the U.S. with records of aggravated felonies
- Importing aliens for prostitution
- Female genital mutilation
- Drug-related robberies involving assault with dangerous weapon
- Carjacking resulting in serious bodily injury
- Threatening to murder a congressman, senator or government official
- Assault of a spouse, intimate partner or dating partner by strangling, suffocating or resulting in substantial bodily injury
- Assault of a law enforcement officer with a deadly weapon
- Arson
- Domestic assault by an habitual offender
- Providing or possessing contraband, including firearms, in prison



- Rioting in a correctional facility
- Felonies committed while in a criminal street gang
- Escape of prisoners
- Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude or forced labor
- Failure to register as a sex offender
- Heroin traffickers who are organizers, leaders, managers and supervisors of the offense
- Methamphetamine traffickers who are organizers, leaders, managers and supervisors of the offense

Additional Provisions in Updated Language

Faith-Based Language Clarification: The update clarifies that faith groups may operate in prisons and offer anti-recidivism programming available to prisoners under the *First Step Act* to earn time credits. It also clarifies that participation in faith-based programming is voluntary and that nothing in the bill alters existing legal requirements on funding faith-based programming.

Risk Assessment Transparency: The update requires that the risk and needs assessment tool be posted publicly on the Department of Justice website.

Dyslexia Screening: The update requires screening and treatment for dyslexia, one of the most common learning disabilities.

Second Chance Act Reauthorization: Reauthorizes the *Second Chance Act* including grant programs for drug treatment, vocational training, mentoring and other reentry and recidivism reduction initiatives. It also mandates a robust oversight regime that requires grantees to submit to periodic audits, requires the National Institute of Justice to evaluate the effectiveness of DOJ grants supporting offender reentry and recidivism reduction programs, and authorizes a GAO report.