

December 11, 2018

The Honorable Mitch McConnell  
317 Russell Senate Office Bld.  
Washington, DC 20510

The Honorable Charles Schumer  
322 Hart Senate Office Bld.  
Washington, DC 20510

The Honorable Paul Ryan  
1233 Longworth House Office Bld.  
Washington, DC 20515

The Honorable Nancy Pelosi  
235 Cannon House Office Bld.  
Washington, DC 20515

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Ryan, and Minority Leader Pelosi:

On behalf of the 48 undersigned organizations, we are writing to voice our support for the FIRST STEP Act (H.R.5682/S.3649), introduced by Representatives Collins (GA) and Jeffries (NY) and amended to include sentencing reforms by Senators Grassley (IA) and Durbin (IL). We urge you to advance this legislation to the President's desk before the end of session.

The demand for rehabilitative programming in the federal prison system far exceeds capacity. For example, approximately 16,000 prisoners are on a waitlist for basic literacy programming. This means incarcerated men and women aren't getting sufficient reentry preparation in prison and as a result, our communities are less safe. Additionally, the federal prison system offers much less opportunity for prisoners to transition to community corrections before the end of their sentence compared to most states. This is due to multiple policies, including having very limited time credits awarded for good behavior and only one federal prison program that qualifies for "earned time" credit.

The federal prison system currently holds more than 180,000 incarcerated men and women, making it the largest prison system in the country. The Bureau of Prisons (BOP) population exceeds its facility capacity by 14 to 25 percent. Limiting the transition time for prisoners to move to community corrections before the end of their sentence exacerbates this overcrowding, making it difficult to run effective programs and to keep prison officials and prisoners safe.

Each year about 40,000 federal prisoners are released, but about half will be arrested again within three years. The revolving door of the criminal justice system is devastating to families and depresses economic activity in many communities. We owe it to the communities most affected by crime and incarceration to ensure that federal prisoners have the greatest possibility for rehabilitation while in prison and success upon release.

Additionally, we applaud the sentencing reform additions, which will restore more proportional sentencing enhancements and allow for greater judicial flexibility in certain limited cases. These changes permit defendants to be sentenced in a manner that is more consistent with their culpability and role in drug crime. For example, a defendant charged as part of a drug conspiracy—even a low-level courier, who may be involved in order to support a personal

addiction—can be charged and sentenced with a mandatory minimum based on the total amount of drugs sold by everyone who participated in that conspiracy (even if the courier never knew who these people were or what quantity of drugs they sold).

This FIRST STEP Act aims to right-size sentences and improve our prisons' rate of return through the following reforms:

- **Expands and Improves the Delivery of Prison Programs:** The BOP is required to increase and improve prison programming and productive activities for all prisoners, such as drug rehabilitation, education, skills training, faith-based classes, and work programs, in partnership with non-profit and faith-based organizations. These programs and activities will be tailored to each individual's risk and needs.
- **Implements Risk Assessment System:** The Department of Justice must develop a Post-Sentencing Risk and Needs Assessment System and implement it in all facilities in order to assign the most effective programming to each individual. Prisoners will be periodically reassessed to monitor progress.
- **Provides Incentives for Program Completion:** All prisoners will be assigned programming and have access to incentives for program completion such as increased phone and visitation privileges, increased commissary products and spending limits, moving to a facility closer to home, and other incentives suggested by prisoners and approved by the BOP Director. Prisoners testing as low-risk (or those approved by the warden) are eligible to move to a halfway house or home confinement earlier.
- **Clarifying the Calculation for Good Time Credit:** Current law states that prisoners can earn up to 54 days off their sentences each year for good behavior. Unfortunately, for decades, an ambiguity in how to calculate this credit has resulted in federal prisoners only receiving a maximum of 47 days each year. The FIRST STEP Act clarifies that the calculation should be a maximum of 54 days per year, not just going forward, but also for the years prisoners have already served with good behavior.
- **Improves Faith-Based Program and Volunteer Access:** Prevents discrimination against faith-based programs and instructs the Bureau of Prisons that faith-based programs proven to reduce recidivism are permitted to function as education and reentry programs.
- **Sentencing Reforms:**
  - The enhanced mandatory minimums for prior serious drug felonies are reduced: the three-strikes penalty is reduced from life imprisonment to 25 years and the 20 year minimum is reduced to 15 years. Serious violent felonies are now added to this three-strikes enhancement penalty.
  - The criteria for the federal safety valve, which allows judges to depart from a mandatory minimum, is expanded to include defendants with up to four criminal history points, excluding misdemeanors, and restricting those with any 3-point

offenses or any two-point violent offenses.

- Clarifies that mandatory minimum sentence enhancements under 18 USC § 924(c) for use of a firearm during the commission of multiple crimes is limited to people who have been previously convicted and served a sentence for such an offense, focusing our resources on recidivists.
- Allows currently incarcerated federal prisoners sentenced for a crack cocaine offense prior to the Fair Sentencing Act of 2010 to petition for relief consistent with the Fair Sentencing Act.
- **Meets the Unique Need of Incarcerated Women:** Requires BOP to provide feminine hygiene products to female prisoners at no cost. Prohibits the use of restraints on incarcerated mothers during the period of pregnancy and postpartum recovery.
- **Reinvests Savings to Improve Public Safety:** Savings from the above reforms will be reinvested in local law enforcement efforts and recidivism-reduction programs.

Federal prisons should provide opportunities for men and women behind bars to make amends and earn back the public's trust. The regular use of risk and needs assessment, individualized prison program plans, incentives for program completion, and opportunities for earlier release for good behavior, will be a significant step in transforming the federal prison system. Federal sentences should be just and proportional, holding people accountable in a manner that is consistent with their culpability. This legislation will allow men and women in our federal prisons to return home sooner and better prepared to give back to their families and communities at their highest potential.

We believe these changes will improve the effectiveness of our prisons and public safety. The FIRST STEP Act is a significant step to advance justice and we hope it is just one of many to come. We thank you for your consideration and look forward to joining you in supporting the swift passage of this legislation by the Senate and the House.

Sincerely,

[Signatures located on following pages.]

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Criminal Justice Task Force Director  
ALEC Action



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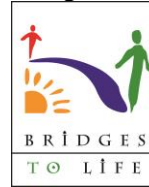
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**Returning Home**  
Repairing Lives. Restoring Families.

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