



DUE PROCESS

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Support the First Step Implementation Act, S. 1014

The passage of the First Step Act in December 2018 was a watershed moment. Congress took meaningful action to pass bipartisan legislation to focus on recidivism reduction through programming in federal prisons and to provide modest sentencing reform. As a result of this landmark law, fewer people are in federal prison. This means more individuals who were formerly incarcerated have been reunited with their families and are working toward positive contributions to society rather than being warehoused in a federal prison facility.

But, more than two years after passage of the First Step Act, it is clear to the public, as well as many in Congress, that certain additional steps must be taken so that the law's intended impacts can be maximized. Introduced by Sens. Dick Durbin (D-IL) and Chuck Grassley (R-IA), the First Step Implementation Act, S. 1014, supports the original bipartisan reforms passed under the First Step Act.

Title IV of the First Step Act reformed certain mandatory minimum sentences required under the Controlled Substances Act—21 U.S.C. § 841 and 21 U.S.C. § 860—and clarified the sentencing enhancement for the possession of a firearm for certain drug crimes—18 U.S.C. § 924(c). The First Step Implementation Act clarifies application of these changes and further enhances the reforms by allowing federal courts to retroactively apply the changes made under the First Step Act, thus bringing justice to those who have been previously overly sentenced.

The First Step Implementation Act also modifies the First Step Act's expansion of the federal safety valve for low-level, nonviolent offenders—18 U.S.C. § 3553(f)—by allowing a court to sentence below the requisite mandatory minimum sentence if the court determines that the person's criminal history is substantially overrepresented or the likelihood that the person will commit additional crimes is substantially overrepresented. (The court must notify federal prosecutors if it plans to apply the safety valve to such a defendant and explain its reason in writing.)

The First Step Implementation Act also includes some critical but modest juvenile justice reforms. The bill would allow a court to reduce the sentence for a person who committed a crime before he or she turned 18 if the person has served more than 20 years and meets certain other qualifications. Persons granted relief under this provision would then be subject to supervised release. The First Step Implementation Act would also provide for the automatic sealing of a federal nonviolent juvenile delinquency conviction if the person does not have another conviction or any pending charges. The bill also provides for the automatic expungement of a federal nonviolent juvenile delinquency conviction before the age of 15 in order to provide second chances to youth.

Continuing the bipartisan progress made on criminal justice reform must be a top priority of the 117th Congress. This bill, along with other vital criminal justice reform legislation, continues that progress. Due Process Institute urges Senators to co-sponsor and support the First Step Implementation Act, S. 1014.

Due Process Institute is a bipartisan nonprofit that works to honor, preserve, and restore principles of fairness in the criminal legal system. If you have any questions or concerns, please contact Director, Rule of Law Initiatives, Jason Pye at jason@idueprocess.org.