

## THE CORRECTIONS ACT -- S. 1994 (115th Congress)

**Summary:** The CORRECTIONS Act of 2017 is a bipartisan bill introduced in the U.S. Senate on October 19, 2017, by Senators John Cornyn (R-TX), Mike Lee (R-UT), and Sheldon Whitehouse (D-RI).

If passed into law, the bill would, among other things, allow some federal prisoners to spend more time in less restrictive forms of Bureau of Prisons custody (i.e., a halfway house, home confinement, or community supervision) if they complete rehabilitative programs and productive activities (i.e., jobs) in prison.

### **If passed, the CORRECTIONS Act would make the following reforms to federal prisons:**

#### *Earned time credits for completing rehabilitative programs*

- Requires the Bureau of Prisons (BOP) to create a risk assessment tool to assess and classify each prisoner's level of risk of recidivism as low, medium, or high, and reassess prisoners' risk levels periodically, with the frequency of reassessment increasing as a prisoner gets closer to release.
- Gives BOP 6 years to create enough recidivism-reducing programming and jobs for all eligible prisoners.
- Allows some categories of federal prisoners to earn more time in a halfway house, on home confinement, or on community supervision if they complete rehabilitative programs or productive activities (e.g., prison jobs), as follows:
  - 5 days credit for each 30 days of programming completed, if the prisoner is medium or high risk;
  - 10 days credit for each 30 days of programming completed, if the prisoner is low risk;
  - Credits earned are in addition to good time credit and to credit earned for completing the Residential Drug Abuse Program (RDAP) -- however, the BOP, in its discretion, can also reduce a person's earned time credits by up to 6 months if the person also earns time off for completing RDAP.
- Permits only low-risk or medium-risk prisoners who previously reduced their risk level to "cash in" their earned time credits for more time on another form of confinement:
  - Medium-risk prisoners can only spend their time credits in halfway houses or on home confinement, and cannot spend time on community supervision;
  - Low-risk prisoners may be placed in halfway houses, on home confinement, or on community supervision. Only up to half of the time credits low-risk prisoners have earned can be spent on community supervision -- the rest must be spent in halfway house or on home confinement;
  - BOP is required to put low-risk, low-needs prisoners directly on home confinement or community supervision, and to reserve halfway houses for higher-risk, higher-needs prisoners.

- People serving sentences of more than 3 years must go through a court review process to decide whether they can "cash in" their earned time credits and be released to another form of custody. This process would apply to 85 percent of the current federal prison population, because only 15 percent of current prisoners are serving sentences of less than 3 years:
  - First, the BOP director must give the U.S. Department of Justice notice of each prisoner's possible release, at least 6 months before the release is to occur.
  - Second, the U.S. Attorney's Office can ask for a hearing to deny or modify the prisoner's release. The court may or may not grant a hearing. If a hearing is granted, the prisoner has a right to be present in person or by video conference.
  - Third, if the U.S. Attorney's Office does not seek a hearing to deny or modify the prisoner's release, the Department of Justice must explain in writing why it does not.
  - Fourth, if the court has a hearing, it can deny or modify the prisoner's release if the court finds, by a preponderance of the evidence, that the prisoner's release (1) doesn't fulfill the purposes of punishment (i.e., just punishment, deterrence, public safety, rehabilitation), or (2) creates an unwarranted sentencing disparity, or (3) prevents restitution to victims.
- Bans many prisoners from earning time credits, including people
  - Serving a sentence for a second or subsequent federal offense;
  - With more than 13 criminal history points, as calculated under the U.S. Sentencing Guidelines (unless the court found in writing at sentencing that the person's criminal history score overrepresented the seriousness of the person's record or the likelihood that they will reoffend, and the court lowered the person's criminal history category);
  - Convicted of federal terrorism offenses;
  - Convicted of a federal crime of violence;
  - Convicted of a federal sex offense;
  - Convicted of continuing criminal enterprise (21 U.S.C. section 848);
  - Convicted of a federal fraud offense for which the person is serving more than 15 years;
  - Convicted of a federal child exploitation offense; or
  - Convicted of a federal offense for bribery, graft, and conflicts of interest; election and political activity crimes; identity theft and fraud; honest services fraud; obstruction of justice; racketeering; and sexual exploitation or abuse of children.
- Allows prisoners who cannot earn time credits to earn other incentives for program and job completion, including more minutes for phone calls or more visits from family and friends.
- Time credits earned by doing programming or productive activities can be lost if the prisoner breaks prison rules.

### *Residential Drug Abuse Program (RDAP)*

- Gives the Bureau of Prisons 3 years to expand the Residential Drug Abuse Program (RDAP) so that all prisoners who are eligible can enter the program in time to receive the full one-year sentence reduction if they successfully complete the program. Currently, the program is limited and in such high demand that prisoners cannot begin the program in time to earn the full sentence reduction -- prisoners who complete the program now only actually receive a 10-month sentence reduction, not a full year.

### *Elderly release*

- Allows the Bureau of Prisons or a prisoner to file a request for early release with the court if the prisoner is elderly OR elderly and seriously ill (unless the person was convicted for a federal violent, sex, terrorism, or espionage offense), so long as the prisoner also
  - Is at least 60 years old;
  - Has served at least 2/3 of their sentence;
  - Is not serving a life sentence for a federal violent, sex, terrorism, or espionage offense;
  - Does not have prior convictions for federal or state violent, sex, terrorism, or espionage offenses;
  - Has never escaped or attempted to escape from a BOP facility;
  - Has not been determined by the BOP, in its sole discretion and on the basis of information the Bureau uses to make custody classifications, to have a history of violence, criminal sexual conduct, terrorism, or espionage;
  - Has been determined by the BOP not to be a public safety risk, if released; and
  - Has been determined by the BOP to save the federal government money if he/she is released to home confinement.

### *Parole for certain offenders serving life sentences and convicted as juveniles*

- If passed, the bill would allow people serving life sentences for offenses committed when they were younger than 18 years old to petition the court for early release, so long as
  - The person has served at least 30 years in prison;
  - The court finds that the person is not a threat to public safety; and
  - The court finds that reducing the sentence is in the interests of justice.

### **If passed, the CORRECTIONS Act would NOT:**

- Reform or change any federal sentencing laws, including mandatory minimums;
- Authorize any new or additional funding from Congress to implement prison reforms;
- Give prisoners an additional 7 days of good time credit each year.