

## **The First Step Act (S. 3649): Good for Families, Prisoners, and Public Safety**

**Why FAMM supports the First Step Act:** The bill would, if passed, provide long needed reform to several of our most ineffective mandatory minimum sentencing laws as well as bring some immediate relief to virtually all federal prisoners and their families. While the bill is not perfect, it does include reforms FAMM has advocated for decades – reforms that keep families together, fund rehabilitative programs, and bring people home from prison sooner. We also know that families need justice reform now. If passed, the First Step Act would, among other provisions:

**Reform several mandatory minimum sentencing laws.** The First Step Act would reduce or reform several federal mandatory minimum laws. While the majority of the reforms will only apply prospectively, they are important First Steps in mitigating the harms of unjust sentencing laws. These reforms would:

- Reduce mandatory life without parole sentences for a third felony drug trafficking conviction to 25-years and reduce the 20-year mandatory minimum for a second felony drug offense to 15-years (prospective only);
- Broaden the existing safety valve so that judges can more freely use their discretion to apply appropriate sentences below the mandatory minimum (prospective only);
- Provide a fix to 18 USC 924(c) so that first-time offenders do not receive decades long sentences intended for true repeat offenders (prospective only); and
- Apply the Fair Sentencing Act of 2010 retroactively to allow federal prisoners serving since-reformed crack-cocaine mandatory minimums to motion the courts for resentencing.
- **Why it matters:** These sentencing reforms signify a meaningful first step towards creating a more effective and fair justice system at the federal level. These reforms will help focus BOP resources on higher risk offenders and begin to reduce the federal government's overreliance on long, ineffective, and expensive prison sentences.

**Place prisoners within 500 driving miles of their families.** The First Step Act would require the BOP to place people in prisons no more than 500 driving miles from home unless security designation, programming or health care needs, or bed space limits prevent it.

- Maintaining family ties is proven to reduce recidivism and make the public safer, yet about 1 in 4 federal prisoners are incarcerated more than 500 miles from home.
- **Why it matters:** Long distances make it difficult and expensive for spouses, parents, and children to visit a loved one in prison – sometimes, families go years without seeing each other. This makes it harder to keep a family or marriage together, build bonds with children, or reintegrate with a family after prison.

**Bring more than 178,000 federal prisoners home to their families sooner.** The First Step Act would give all federal prisoners except those serving life sentences an additional 7 days off for each year of the sentence imposed, if the prisoner displays good behavior.

- Congress allows prisoners to earn 54 days per year of “good time credit,” but for decades a mistake in the statute has meant prisoners actually earn only 47 days per year.
- The FIRST STEP Act corrects this statutory mistake not just going forward, **but also retroactively**.
- Increased good time credit generates millions in cost savings that can be reinvested in better programming, qualified staff, and more halfway houses and home confinement.
- **Why it matters:** A person serving a 10-year sentence would get an extra week off for each year already served with good behavior, plus an extra week off for each year served with good behavior going forward. Those extra 10 weeks could mean being at home for a birthday, a funeral, a graduation, a wedding, or a baby’s First Steps.

**Require greater use of home confinement.** The First Step Act would require the Bureau of Prisons (BOP) to put low-risk, low-needs people in home confinement for the maximum amount of time allowed (up to 6 months or 10 percent of the person’s sentence, whichever is less).

- Some people leaving prison do not need the services of a halfway house and can go straight to home confinement to live with their families while they reenter society.
- Historically, the BOP has not fully utilized home confinement.
- **Why it matters:** Home confinement is cheaper than prison or a halfway house and saves taxpayer money. Requiring BOP to use home confinement more often also saves a limited number of halfway house beds for the people who need them most. The result: more safety, lower costs, and earlier family reunification.

**Fund and incentivize rehabilitative programming.** The First Step Act would allow all prisoners to receive some incentives for doing rehabilitative programs that reduce their recidivism.

- Currently, the BOP lacks sufficient rehabilitative programming for all prisoners, including job training, education, and mental health and drug treatment.
- The FIRST STEP Act authorizes \$375 million in funding over 5 years for rehabilitative programming and requires the BOP to expand programming within 3 years.
- Medium- and high-risk prisoners get priority for placement in rehabilitative programs.
- Incentives include earned time credits (for a limited number of lower-risk prisoners), more commissary spending options, more phone minutes and visitation, or transfer to a different prison or housing unit.
- **Why it matters:** Prisoners respond to incentives, just like the rest of us, and need meaningful opportunities to get the job skills, education, and treatment that will help them live a crime-free life after prison. Investing in high-quality programs and incentivizing participation in them is an investment in greater public safety.

**Improve accountability in the BOP’s use of compassionate release.** The First Step Act includes the GRACE Act, a provision that would hold the BOP accountable for a timely review of compassionate release requests from prisoners who are elderly, terminally ill, or facing other “extraordinary and compelling circumstances.”

- The bill would hold the BOP accountable by
  - o Allowing prisoners to appeal denials of compassionate release to federal courts after all other BOP remedies have been exhausted or at least 30 days have passed since the request was submitted;

- Requiring annual data reporting on the BOP's use of compassionate release;
  - Creating an expedited timeline for BOP consideration of compassionate release requests from terminally ill prisoners;
  - Permitting family members, lawyers, and BOP staff to help prisoners file compassionate release requests;
  - Requiring better notice to BOP staff and prisoners of when compassionate release is available and how to ask for it.
- **Why it matters:** Sick and elderly prisoners have the lowest recidivism rates, yet are the most expensive people to incarcerate. Since 2014, 81 families have watched a loved one die in prison while a compassionate release request went unanswered. Neither taxpayers, families, nor public safety benefit from keeping sick and elderly prisoners behind bars.