

H.R. 5682: The FIRST STEP Act

Section-by-Section

Section. 1. Short Title; Table of Contents

Sets forth the short title for the entire Act as the “Formerly Incarcerated Reenterer Society Transformed Safely Transitioning Every Person Act” or the “FIRST STEP Act” and sets forth the table of contents.

TITLE I. RECIDIVISM RISK REDUCTION

Section 101. Risk and needs assessment system

Directs the Attorney General to conduct a review of the risk and needs assessment system used by the Bureau of Prisons’ and develop recommendations on recidivism reduction programs and productive activities; to conduct ongoing research and data analysis on the programming and its effectiveness; to annually review and validate the risk and needs assessment system; to update and revise the risk and needs assessment system as determined appropriate; and to report to Congress.

Requires the Attorney General to develop and release a risk and needs assessment system that will (1) determine the recidivism risk level (minimum, low, medium, or high) of each prisoner at intake, (2) assess and determine the risk of violent or serious misconduct of each prisoner, (3) determine the type, amount, and intensity of programming for each prisoner and assign programming accordingly, (4) reassess each prisoner periodically and adjust programming assignments accordingly, (5) determine when to provide incentives and rewards for successful participation in programming or productive activities, and (6) determine when a prisoner is ready to transfer into prerelease custody. In developing the risk and needs assessment system, the Attorney General may use existing tools as appropriate.

The risk and needs assessment system should provide guidance on the type, amount, and intensity of the programming and activities each prisoner should be assigned to and tailor those programs to the specific criminogenic needs of each prisoner in an effort to lower their risk of recidivism.

The risk and needs assessment system used by the Bureau of Prisons following enactment of this Act should provide that prisoners with similar risk levels are grouped together in housing and assignment decisions to the extent practicable.

Establishes incentives and rewards for prisoners to participate in programming and activities. This includes increased family phone and visitation privileges, transfer to an institution closer to the inmate’s release residence, and earned time credits. Further, the Bureau of Prisons is instructed to develop additional policies to provide appropriate incentives for successful participation in programming which may include increased

commissary spending limits and product offerings, extended opportunities to access the email system, and direct placement in home confinement for minimum security level inmates who completed recommended programming.

Prisoners shall earn 10 days of time credits for each 30 days of successful participation in recidivism risk reduction programming or activities. A prisoner that is classified as minimum or low risk for recidivating and that has not increased their risk of recidivism over two reassessments can earn an additional 5 days (for a total of 15 days). Prisoners who have successfully participated in recidivism reduction programs or productive activities and who have been determined to be at minimum or low risk for recidivating at their last two reassessments may apply their time credits towards pre-release custody.

A prisoner may not earn time credits for programming or activities participated in before enactment of this Act and before the prisoner's sentence commences. Makes prisoners ineligible to earn time credits if the prisoner is serving a sentence for conviction of certain offenses.

Requires prisoners participating in the recidivism reduction programming or productive activities to be reassessed for recidivism risk not less than annually. Requires prisoners determined to be at medium or high risk and with an anticipated release date within 5 years to be reassessed more frequently. If a reassessment shows that a prisoner's risk of recidivating has changed, the Bureau of Prisons should update the prisoner's classification and reassign the prisoner to appropriate recidivism reduction programming based on the changes. Requires BOP to establish guidelines for reducing rewards and incentives for prisoners who violate prison, program, or activity rules, and for restoring those rewards and incentives based on individual progress.

Requires the Attorney General to develop training programs for BOP officials and employees related to the implementation and operation of the System and to conduct annual audits of the System.

Prior to releasing the risk and needs assessment system, the Attorney General shall review the effectiveness of evidence-based recidivism reduction programs that exist in prisons operated by the Bureau of Prisons, review such programs that exist in State-operated prisons throughout the U.S., identify the most effective evidence-based recidivism reduction programs, review policies for entering into evidence-based recidivism reduction partnerships, and direct the Bureau of Prisons on such programming and partnerships.

Directs the Attorney General to submit an annual report about the activities undertaken as a result of this Act.

Sets forth definitions used in this Act.

Section 102. Implementation of system and recommendations by Bureau of Prisons

Directs the Bureau to: (1) implement the System and complete a risk and needs assessment for each prisoner; (2) begin to expand the effective programs it offers and add any new ones necessary to effectively implement the System; and (3) begin to implement the other risk and needs assessment tools necessary to effectively implement the risk and needs assessment system over time.

Requires the Attorney General to phase in such programs within 2 years and to develop and validate the risk and needs assessment tool.

Sets forth requirements for prerelease custody for risk and needs assessment system participants to include those who have earned time credits, have displayed and maintained a lower recidivism risk, and have been classified by the warden of the prison as qualified to be transferred into prerelease custody. Allows such prisoners to be placed in prerelease custody including home confinement, community supervision, and halfway homes. Requires the Attorney General to consult with the Assistant Director for the Office of Probation and Pretrial Services to issue guidelines for Bureau of Prisons' use to determine the appropriate prerelease custody for prisoners as well as consequences for violating prerelease custody conditions. Further requires the Director of the Bureau of Prisons to enter into agreements with the United States Probation and Pretrial Services to supervise prisoners placed in home confinement or community supervision under this subsection.

Allows prisoners to receive mentoring services from a person that provided those services to the prisoner while incarcerated.

Directs the Attorney General to review the effectiveness of existing programs in prisons operated by the BOP and in state-operated prisons and utilize the outcome of that review to direct the BOP regarding the replication and expansion of effective programming and activities.

Directs the Attorney General to submit an annual report about the activities undertaken as a result of this Act.

Section 103. GAO Report

Requires the Comptroller General to conduct an audit on the BOP's use of the risk and needs assessment system, analyzing several factors of the risk and needs assessment system and its implementation in BOP facilities.

Section 104. Authorization of appropriations

Authorizes \$50 million from 2018 to 2022 to carry out the activities described in the Act.

Section 105. Rule of construction

Sets forth that nothing in this Act may be construed to provide authority to place a prisoner on prerelease custody who is serving a term of imprisonment for a non-federal

crime.

TITLE II. BUREAU OF PRISONS SECURE FIREARMS STORAGE

Section 201. Short Title

Sets forth the short title for Title II as the “Lieutenant Osvaldo Albarati Correctional Officer Self-Protection Act of 2016.”

Section 202. Secure firearms storage

Requires the Director of BOP to ensure that employees are allowed to store firearms in a vehicle lockbox approved by the Director of the BOP. Where storage in vehicles isn’t possible, the BOP should provide alternative opportunities to store weapons.

TITLE III. RESTRAINTS ON PREGNANT PRISONERS PROHIBITED

Section 301. Use of Restraints on Prisoners During the Period of Pregnancy

Prohibits the use of restraints on prisoners during the period of pregnancy and postpartum recovery. The prohibition shall not apply if the prisoner is determined to be an immediate and credible flight risk or poses an immediate and serious threat of harm to herself, the fetus or others. Requires a report to be filed with the Director of BOP and prisoner’s healthcare professional when restraints are used. Requires BOP to provide information to Congress annually.

TITLE IV. MISCELLANEOUS CRIMINAL JUSTICE

Section 401. Placement of prisoners close to families

Provides that prisoners should be, subject to bed availability and the prisoner’s security designation, placed in a facility as close as practicable to the prisoner’s primary residence, but not more than 500 driving miles from the prisoner’s primary residence. A prisoner with a security designation higher than the facilities closest to its release will not be transferred to a lower-security prison as a result of this provision.

Section 402. Home confinement for low-risk prisoners

Requires the Bureau of Prisons to place prisoners with lower risk levels and needs on home confinement for the maximum amount of time permitted.

Section 403. Federal prisoner reentry initiative reauthorization; modification of imposed term of imprisonment

Allows for the compassionate release to home detention of elderly and terminally ill offenders.

Requires the Director of the Bureau of Prisons to provide an annual report describing

requests and releases made under this subsection, as well as additional information.

Section 404. Identification for returning citizens

Requires that, prior to release from a Federal prison, an individual should be provided with his or her birth certificate and photo identification.

Section 405. Expanding inmate employment through Federal prison industries

Authorizes new markets for Federal prison industries including public entities for use in penal or correctional institutions or disaster relief, the government of the District of Columbia, and any 501(c)(3), (c)(4), or (d) tax-exempt organization.

Allows for the creation of escrow accounts in which prisoners may store a portion of compensation from the Federal prison industries to be used following release from custody.

Section 406. De-escalation training

Requires the BOP to provide de-escalation training as part of the regular training requirements of correctional officers.

Section 407. Evidence-based treatment for opioid and heroin abuse

Requires BOP to submit a report and evaluation of the current pilot program to treat heroin and opioid abuse through medication- assisted treatment.

Section 408. Pilot programs

Requires BOP to establish two pilot programs for 2 years in 10 facilities. The first is a mentorship program for youth and the second is for the training and therapy of abandoned, rescued, or other- wise vulnerable animals.

Section 409. Ensuring supervision of released sexually dangerous persons

Provides U.S. Probation and Pretrial Services authority to supervise sexually dangerous persons who have been conditionally released from civil commitment.

Section 410. Data collection

Establishes for BOP a statistical and demographic data reporting requirement. This data must be provided to Congress annually for 7 years and as part of the National Prisoner Statistics Program.

Section 411. Healthcare products

Requires BOP to provide feminine hygiene products to female inmates at no cost.

Section 412. Prison rape elimination standards auditors

Requires individuals seeking certification to serve as an auditor of prison compliance with the Prison Rape Elimination Act (PREA) undergo background checks to become certified. Requires all auditors to sign an Auditor Certification Agreement and clarifies that the Department of Justice's PREA Management Office (PMO) has the authority to ensure that auditors uphold the standards spelled out in the Auditor Certification Agreement.

Permits the PMO to take remedial and disciplinary action when auditors do not fulfill their obligations, namely suspension and decertification of auditors who clearly disregard the standards to which they are required to adhere.

Section 413. Adult and juvenile collaboration programs

Raises the training and technical assistance cap for the Mentally Ill Offender Treatment and Crime Reduction Act's (MIOTCRA) Justice and Mental Health Collaboration Program (JMHCP) to no less than 6 percent of appropriated funds (up from the current cap of 3 percent). To ensure that the Bureau of Justice Assistance and TTA providers can keep pace with the demand for assistance from counties and states, the proposal sets a minimum of 8 percent of appropriated funds.