



May 15, 2018

## Vote “No” on The FIRST STEP Act

Dear Representative,

On behalf of The Leadership Conference on Civil and Human Rights, and the ## undersigned organizations, I write to express our opposition to The FIRST STEP Act (H.R.5682). While we appreciate the inclusion of some critical reforms to the prison system within the bill, we strongly believe that the Bureau of Prisons (BOP) already has the authority to make the majority of those changes through administrative action.

Moreover, we continue to have several, major concerns with The FIRST STEP Act, including:

- **The Omission of Sentencing Reform:** Sentencing reform and prison reform are both important, but one will not work without the other. Meaningful reform requires both. Furthermore, advancing prison reform as a stand-alone will undermine longstanding, bipartisan efforts in the Senate to advance a comprehensive justice reform package that includes sentencing reform.
- **The Overbroad List of Exclusions:** The majority of people in federal prison are eventually released. Categorically excluding entire groups of people from receiving early-release credits will undermine efforts to reduce prison overcrowding and improve public safety since such exclusions weaken the incentive to participate in recidivism-reduction programming. Furthermore, many of these exclusions, such as those based on immigration-related offenses, could have a disproportionate impact on racial minorities.
- **The Dangerous “Risk Assessment System”:** The Act uses “risk assessments” in an untested manner. It fails to ensure transparency, independent testing, or analysis of the proposed risk assessment system or its results prior to its adoption or implementation. It doesn’t require the tool to be designed or tailored for the individuals it is meant to judge. Without these things, and in the hands of the nation’s most prominent proponent of a punishing, rather than a rehabilitative criminal justice system, “risk assessments” will further embed racism into the meting out of resources that could change inmates’ lives - like access to treatment, work, and most importantly, the ability to earn time off of a sentence.
- **The Absence of Funding for Implementation:** The resources for the programming authorized under the bill has not been – and may never be – appropriated. Furthermore, the recidivism reduction programming that currently exists in the federal prison system is grossly underfunded and not enough to serve those currently

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Anti-Defamation League  
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Vanita Gupta

incarcerated. Therefore, without any guarantees that the necessary funding will be appropriated, this bill is an empty promise.

- **The Undetermined Human and Fiscal Impact:** It is unclear what the fiscal impact of this bill will be, given that the Congressional Budget Office has not released a score for the bill. Moreover, it is unclear what the human impact of this bill will be, given that neither the BOP nor the U.S. Sentencing Commission has produced updated estimates on the number of people projected to be impacted by the legislation. Proponents argue that at least 4,000 people will be impacted by the good time fix alone; however, relying on that number is misleading because it is based upon data that is over a decade old. No hearings have been held and there is no CBO score available in order to explore these questions further.
- **The Misplaced Incentive System:** Effectively reducing recidivism requires targeting those most likely to reoffend with rehabilitative programming. Yet, under this bill, only “minimum” and “low-risk” prisoners would be able to redeem their earned time credits, and they would earn more credits than prisoners categorized as “medium” or “high-risk.” Given that time credits would also be subject to denial by the BOP warden and they are not real time off of a sentence but rather a flawed mechanism to transition into a decreasing number of halfway houses or to home confinement that is rarely used by BOP, the bill is unlikely to provide the incentives that would meaningfully reduce recidivism.
- **The Overbroad Discretion Provided to Attorney General Sessions:** The bill gives broad authority to the Attorney General and would rely upon implementation by this Administration. Despite assurances to the contrary, this Administration has failed to take any active steps to improve the justice system, has dismantled existing protections, and has shown outright hostility to people of color and other historically marginalized communities. Furthermore, Attorney General Jeff Sessions is a well-known, longtime opponent of sentencing and prison reform. It would be unwise and harmful to vest so much discretion in an Attorney General so hostile to meaningful justice reform.

Last week, we were joined by over 70 civil rights organizations in opposing this well-intentioned, but misguided legislation at the House Judiciary Committee markup.<sup>1</sup> Many of our concerns were also shared by the American Federation of Government Employees representing 33,000 federal correctional workers in the Bureau of Prisons,<sup>2</sup> as well as Representatives Lewis, Jackson Lee, and Senators Durbin, Booker, Harris in a recent Dear Colleague letter.<sup>3</sup> While we appreciate the inclination to support legislation that endeavors to reform our prison system, we believe that this particular bill would do more harm than good and would have unintended consequences that ripple into the future.

For the foregoing reasons, we urge you to vote “No” on the FIRST STEP Act and will be including your position on the bill in our voting scorecard for the 115th Congress. If you have any questions, please feel free to contact Sakira Cook, Senior Counsel at The Leadership Conference on Civil and Human Rights, at (202) 263-2894 or [cook@civilrights.org](mailto:cook@civilrights.org).

Sincerely,

The Leadership Conference on Civil and Human Rights  
African American Ministers In Action  
American Civil Liberties Union  
American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)  
American Humanist Association  
Asian Pacific American Labor Alliance  
Association of University Centers on Disabilities (AUCD)  
Autistic Self Advocacy Network  
Bend the Arc Jewish Action  
Buried Alive Project  
Campaign for Youth Justice  
Center for Responsible Lending  
Coalition of Black Trade Unionists  
Coalition on Human Needs  
Color of Change  
CURE (Citizens United for Rehabilitation of Errants)  
Defending Rights & Dissent  
Disability Rights Education & Defense Fund  
Drug Policy Alliance  
Equal Justice Society  
Equality California  
Equity Matters  
Evangelical Lutheran Church in America  
Faith Action Network - Washington State  
Government Information Watch  
Harm Reduction Coalition  
Hip Hop Caucus  
Human Rights Watch  
Jewish Council for Public Affairs  
Justice Strategies  
JustLeadershipUSA  
LatinoJustice PRLDEF  
Law Enforcement Action Partnership  
Let's Start, Inc.  
MomsRising  
NAACP  
NAACP Legal Defense and Educational Fund, Inc.  
National Association of Human Rights Workers  
National Association of Social Worker  
National Bar Association (NBA)  
National Black Justice Coalition  
National Center for Lesbian Rights

National Coalition on Black Civic Participation  
National Council of Churches  
National Employment Law Project  
National Hispanic Media Coalition  
National Immigration Law Center  
National Juvenile Justice Network  
National LGBTQ Task Force Action Fund  
National Organization for Women  
National Religious Campaign Against Torture  
NETWORK Lobby for Catholic Social Justice  
People For the American Way  
PFLAG National  
Prison Policy Initiative  
Safer Foundation  
Service Employees International Union (SEIU)  
Sikh American Legal Defense and Education Fund  
Southern Poverty Law Center  
Students for Sensible Drug Policy  
The Decarceration Collective  
The National Council for Incarcerated and Formerly Incarcerated Women and Girls  
The United Church of Christ  
United Church of Christ, Justice and Witness Ministries  
The United Methodist Church - General Board of Church and Society  
T'ruah: The Rabbinic Call for Human Rights  
UnidosUS  
Union for Reform Judaism  
United We Dream  
Washington Lawyers' Committee for Civil Rights & Urban Affairs  
We Got Us Now  
334 East 92nd Street Tenant Association

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<sup>1</sup> <http://civilrightsdocs.info/pdf/policy/letters/2018/not-retroactive-Sign-On-Letter-Oppose-First%20Step%20Act-5.8.18-FINAL.pdf>.

<sup>2</sup> <https://www.afge.org/globalassets/documents/bop/first-step-letter-5-11-18.pdf>.

<sup>3</sup> <http://thehill.com/blogs/floor-action/senate/388149-democrats-urge-colleagues-to-oppose-prison-reform-bill>.