

THE NEXT STEP ACT

What We Got Right, What We Got
Wrong, What We Do Next



THE NEXT STEP ACT:

What It Does, Why it's Not Enough and What We Do Next

The First Step Act was signed into law in 2018. But even then, some of the law's strongest supporters knew it wasn't enough. "This bill is a step forward for our criminal justice system,"

U.S. Senator Cory Booker (D-N.J.) said at the time. "By no means can it be the only step — it must be the beginning of a long effort to restore justice to our justice system."

Sen. Booker and U.S. Representative Bonnie Watson Coleman (D-N.J.) took another step in 2019 when they introduced the Next Step Act.



WHAT THE NEXT STEP ACT DOES

The First Step Act became law in late 2018. It included several major criminal justice reform measures, including a requirement that the Bureau of Prisons establish a risks and needs assessment system, modifications to sentencing provisions for drug-related federal offenses and reauthorization of the Second Chance Act of 2007 to expand prison programming.

The Next Step Act proposed by Sen. Booker and Rep. Watson Coleman builds on the strong reform measures included in the First Step Act. "When I voted for the First Step Act, I made it clear that my support was contingent upon there being a 'next step,'" Rep. Watson Coleman said when she and Sen. Booker introduced the proposal. Among other things, the New Jersey lawmaker

emphasized that the bill “moves us toward comprehensive reform that addresses the consequences of the War on Drugs, helps provide pathways for people coming out of the criminal justice system and provides for better training for law enforcement.”

It includes provisions aimed at doing the following:

- Reducing harsh mandatory minimum sentences for nonviolent drug offenses.
- Eliminating the 18-to-1 disparity between crack and powder cocaine sentences.
- Ending the federal prohibition on marijuana and expunging criminal records.
- Implementing a “Ban the Box” rule to prohibit federal employees and contractors from asking job applicants about their criminal histories early in the application process.
- Removing barriers for people with criminal records from obtaining certain licenses.
- Reinstating voting rights for formerly incarcerated individuals.
- Creating a pathway to seal records for individuals with nonviolent drug records.
- Improving the ability for prisoners to communicate with their loved ones.
- Providing better racial-bias, de-escalation and use-of-force training for law enforcement
- Banning racial and religious profiling.
- Improving the reporting process for use-of-force statistics.
- All of these provisions build on the foundations created by the First Step Act.

WHY IT'S NOT ENOUGH

While passing the Next Step Act is a must in 2021, reform must go beyond that. Lawmakers must also make sure that the BOP is successfully implementing the First Step Act and being held accountable if it isn't.

The biggest problem so far when it comes to the implementation of the First Step Act focuses on the availability of programming. Under the First Step Act, prisoners can earn 15 days of time credits for every 30 days of programs and activities. On the surface, the 15-30 provision makes it sound relatively straightforward to earn time credits.

But a recent report from the BOP gives a different impression. On the positive side of things, the report shows that some programming provides prisoners with decent opportunities to earn time credits. For example, the “Bureau of Literacy Program” is 240 hours and has a half-hour-a-day schedule.

But other programs paint a grim picture when it comes to the usefulness of time credits. Two female-only programs, “Assert Yourself for Female Offenders” and “Understanding Your Feelings: Shame and Low Self Esteem,” are only eight- and seven-week programs. And they are

only available on a one-hour-a-week schedule. This means it would take someone roughly two months to earn seven or eight hours in time credits.

And that leads to another significant issue: How many hours of programming constitutes a “day” under the First Step Act? If it’s eight, a prisoner could earn just one day of time credit over the course of the eight-week “Assert Yourself for Female Offenders” program. It would take nearly 60 of those eight-week programs to earn 15 days of time credits to shorten your sentence.

Making matters worse, some advocates have already expressed concern that the BOP is applying the law’s exclusions too broadly. In doing so, critics explain, the BOP disqualifies a much larger portion of the prison population than Congress intended.

And these concerns assume that the necessary programs and activities exist in federal facilities in the first place. Prisoners from facilities across the country have indicated that their facilities offer few, sometimes even none, of the programs and activities that can be used to earn time credits.

WHAT WE DO NEXT

What we need to do next is the same when it comes to the Next Step Act as it is with the First Step Act:

- **Pass the Next Step Act.** By the time you read this, lawmakers have already proposed and have begun considering legislation to do so. Read the proposed legislation, work with nonprofit organizations and contact politicians to encourage them to take that next step.
- **Fix the First Step Act.** We already know that the goal behind the First Step Act isn’t being achieved because of problems with its implementation. Provisions need to be amended to ensure that they are clear and that the BOP implements them as intended to achieve the Act’s goals.
- **Hold officials accountable.** In addition to passing and fixing laws, people like you need to hold officials accountable. Whether it’s lawmakers, BOP officials or someone else, Americans need to hold officials accountable by contacting them, by going to the polls and by organizing. 🌀