

118TH CONGRESS
1ST SESSION

S. 1247

To amend the First Step Act of 2018 to permit defendants convicted of certain offenses to be eligible for reduced sentences, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2023

Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. BOOKER, Mr. LEE, Ms. KLOBUCHAR, and Mr. PAUL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the First Step Act of 2018 to permit defendants convicted of certain offenses to be eligible for reduced sentences, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Terry Technical Cor-
5 rection Act”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds that on June 14,
8 2021, the Supreme Court of the United States decided
9 the case of Terry v. United States, 141 S. Ct. 1858

1 (2021), holding that crack offenders who did not trigger
 2 a mandatory minimum do not qualify for the retroactivity
 3 provisions of section 404 of the First Step Act of 2018
 4 (21 U.S.C. 841 note).

5 (b) PURPOSE.—The purpose of this Act is to clarify
 6 that the retroactivity provisions of section 404 of the First
 7 Step Act of 2018 (21 U.S.C. 841 note) are available to
 8 those offenders who were sentenced for a crack-cocaine of-
 9 fense before the Fair Sentencing Act of 2010 (Public Law
 10 111–220) became effective, including individuals with low-
 11 level crack offenses sentenced under section 401(b)(1)(C)
 12 of the Controlled Substances Act (21 U.S.C.
 13 841(b)(1)(C)).

14 **SEC. 3. APPLICATION OF FAIR SENTENCING ACT OF 2010.**

15 Section 404 of the First Step Act of 2018 (21 U.S.C.
 16 841 note) is amended—

17 (1) in subsection (a)—

18 (A) by striking “‘covered offense’ means”
 19 and inserting “‘covered offense’—
 20 “(1) means”;

21 (B) by striking the period at the end and
 22 inserting “; and”; and

23 (C) by adding at the end the following:

24 “(2) includes a violation, involving cocaine base,
 25 of—

1 “(A) section 3113 of title 5, United States
2 Code;

3 “(B) section 401(b)(1)(C) of the Con-
4 trolled Substances Act (21 U.S.C.
5 841(b)(1)(C));

6 “(C) section 404(a) of the Controlled Sub-
7 stances Act (21 U.S.C. 844(a));

8 “(D) section 406 of the Controlled Sub-
9 stances Act (21 U.S.C. 846);

10 “(E) section 408 of the Controlled Sub-
11 stances Act (21 U.S.C. 848);

12 “(F) subsection (b) or (c) of section 409 of
13 the Controlled Substances Act (21 U.S.C. 849);

14 “(G) subsection (a) or (b) of section 418
15 of the Controlled Substances Act (21 U.S.C.
16 859);

17 “(H) subsection (a), (b), or (c) of section
18 419 of the Controlled Substances Act (21
19 U.S.C. 860);

20 “(I) section 420 of the Controlled Sub-
21 stances Act (21 U.S.C. 861);

22 “(J) section 1010(b)(3) of the Controlled
23 Substances Import and Export Act (21 U.S.C.
24 960(b)(3));

1 “(K) section 1010A of the Controlled Sub-
2 stances Import and Export Act (21 U.S.C.
3 960a);

4 “(L) section 90103 of the Violent Crime
5 Control and Law Enforcement Act of 1994 (34
6 U.S.C. 12522);

7 “(M) section 70503 or 70506 of title 46,
8 United States Code; and

9 “(N) any attempt, conspiracy or sollicita-
10 tion to commit an offense described in subpara-
11 graphs (A) through (M).”; and

12 (2) in subsection (c), by inserting “A motion
13 under this section that was denied after a court de-
14 termination that a violation described in subsection
15 (a)(2) was not a covered offense shall not be consid-
16 ered a denial after a complete review of the motion
17 on the merits within the meaning of this section.”
18 after the period at the end of the second sentence.

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