

116TH CONGRESS  
1ST SESSION

# S. 2566

To amend section 3661 of title 18, United States Code, to prohibit the consideration of acquitted conduct at sentencing.

---

## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2019

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

---

## A BILL

To amend section 3661 of title 18, United States Code, to prohibit the consideration of acquitted conduct at sentencing.

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 “Prohibiting Punish-  
5 ment of Acquitted Conduct Act of 2019”.

6 **SEC. 2. ACQUITTED CONDUCT AT SENTENCING.**

7 (a) USE OF INFORMATION FOR SENTENCING.—

8 (1) AMENDMENT.—Section 3661 of title 18,  
9 United States Code, is amended by inserting “, ex-

1       cept that a court of the United States shall not con-  
2       sider, except for purposes of mitigating a sentence,  
3       acquitted conduct under this section” before the pe-  
4       riod at the end.

5           (2) APPLICABILITY.—The amendment made by  
6       paragraph (1) shall apply only to a judgment en-  
7       tered on or after the date of enactment of this Act.

8       (b) DEFINITIONS.—Section 3673 of title 18, United  
9       States Code, is amended—

10           (1) in the matter preceding paragraph (1), by  
11       striking “As” and inserting the following:

12       “(a) As”; and

13           (2) by adding at the end the following:

14       “(b) As used in this chapter, the term ‘acquitted con-  
15       duct’ means—

16           “(1) an act—

17               “(A) for which a person was criminally  
18               charged and adjudicated not guilty after trial in  
19               a Federal, State, or Tribal court; or

20               “(B) in the case of a juvenile, that was  
21               charged and for which the juvenile was found  
22               not responsible after a juvenile adjudication  
23               hearing; or

24           “(2) any act underlying a criminal charge or ju-  
25       venile information dismissed—

1           “(A) in a Federal court upon a motion for  
2           acquittal under rule 29 of the Federal Rules of  
3           Criminal Procedure; or

4           “(B) in a State or Tribal court upon a mo-  
5           tion for acquittal or an analogous motion under  
6           the applicable State or Tribal rule of criminal  
7           procedure.”.

○