

117TH CONGRESS
1ST SESSION

S. 2914

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

SEPTEMBER 30, 2021

Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. BOOKER, Mr. LEE, Mr. PAUL, and Ms. KLOBUCHAR) 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 “‘offense’ means” and in-
19 serting the following:

20 “‘offense’—

21 “(1) means”;

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

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

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

3 “(A) section 3113 of title 5, United States
4 Code;

5 “(B) section 401(b)(1)(C) of the Con-
6 trolled Substances Act (21 U.S.C.
7 841(b)(1)(C));

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

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

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

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

16 “(G) subsection (a) or (b) of section 418
17 of the Controlled Substances Act (21 U.S.C.
18 859);

19 “(H) subsection (a), (b), or (c) of section
20 419 of the Controlled Substances Act (21
21 U.S.C. 860);

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

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

4 “(K) section 1010A of the Controlled Sub-
5 stances Import and Export Act (21 U.S.C.
6 960a);

7 “(L) section 90103 of the Violent Crime
8 Control and Law Enforcement Act of 1994 (34
9 U.S.C. 12522);

10 “(M) section 70503 or 70506 of title 46,
11 United States Code; or

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

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

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