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Prison Reform and Redemption Act – HR 3356 Frequently Asked Questions

A bipartisan group of representatives have introduced HR 3356, the Prison Reform and Redemption Act. The bill has seven cosponsors, one of whom is Mr. Bob Goodlatte (R-VA)—the Chair of the House Judiciary Committee. With Rep. Goodlatte supporting the bill, it has a greater chance of making it out of the Judiciary Committee. But the bill still requires a floor vote in the House, and passage by the Senate before the President can sign it into law. Here are some Frequently Asked Questions that I have put together about the proposed legislation.

1. What is the Prison Reform and Redemption Act, HR 3356?

Answer: HR 3356, The Prison Reform and Redemption Act (PRRA), is a bill that was introduced by Rep. Doug Collins (R-GA) on July 24, 2017. The purpose of the bill is “to provide for programs to help reduce the risk that prisoners will recidivate upon release from prison, and for other purposes.” The bill would accomplish this, in part, by allowing federal prisoners to earn “time credits” for participating in recidivism reduction programs and “productive activities.” These time credits could then be used to lengthen the amount of time federal prisoners spend in prerelease custody (i.e., on home confinement, in a halfway house or on “community supervision”).

2. How will the Prison Reform and Redemption Act be implemented?

Answer: The proposed legislation directs the Attorney General to create a Post-Sentencing Risk and Needs Assessment System (“System”) within 180 days after the bill becomes law. The System will assess each federal prisoner’s risk of recidivism. The System must be statistically validated.

Within 180 days after the System has been created, the BOP is required to begin implementation of the law. Federal prisoners will be assigned to “recidivism reduction” programs based on their recidivism risk. Individuals will be reevaluated periodically and assigned to participate in different programs based on their risk of recidivism.

The BOP is afforded five years to fully implement the bill, with 20 percent of the BOP population phased in each year. Prisoners who are closest to release would have priority for purposes of participating in recidivism reduction programs.

While the System is fully phased in, the BOP has the authority to give prisoners “time credits” and other incentives for participating in existing recidivism reduction programs and other productive activities.

3. What incentives does the Prison Reform and Redemption Act offer for prisoner participation?

Answer: Federal prisoners can earn 10 days of “time credit” for every 30 days of successful participation in recidivism reduction programs or “productive activities.” A bonus of 5 days can be earned after two “successful reassessments” and continued participation in programming. Additionally, prisoners who have low or no risk of recidivism can also receive 5 extra “time credits” per month after two reassessments and further program participation.

The BOP is also authorized to give prisoners who participate in these programs up to 900 phone minutes per month, but not more than 30 minutes per day.

4. How do the “time credits” work under the Prison Reform and Redemption Act?

Answer: First off, the time credits are not good time. This bill leaves in place the current method for earning good time. You can earn time credits on top of good time.

A prisoner can be transferred to prerelease custody when the time credits earned are “equal to the remainder of the prisoner’s imposed term of imprisonment.” The Warden then makes a recommendation to the prisoner’s sentencing judge that the person be placed in prerelease custody. The court has 30 days to act on the request. If the court does not act, the request for transfer to prerelease custody is considered granted.

If the Warden does not request prerelease placement, the prisoner may appeal the Warden’s decision to the Director of the BOP. If the Director denies the appeal, reconsideration may be sought with the sentencing judge.

5. How does the Prison Reform and Redemption Act define “prerelease custody”?

Answer: Under the proposed legislation, prerelease custody includes placement in a halfway house, home confinement, or on BOP “community supervision.” There are a lot of vagaries associated with how “community supervision” would work. But the BOP would determine the “conditions” for such supervision. The community supervision component sounds like “parole light.” The U.S. Probation Office would likely be responsible for managing the supervision of offenders on “community supervision.”

6. Can non-U.S. Citizens receive the incentives offered by the Prison Reform and Redemption Act?

Answer: Non-citizens can participate in this program. Non-citizen prisoners who are eligible for prerelease custody will be transferred to immigration officials for deportation rather than being released into the community.

7. What does “recidivism reduction program” mean under the Prison Reform and Redemption Act?

Answer: (i) social learning and communication, interpersonal, anti-bullying, rejection response, and other life skills; (ii) family relationship building, structured parent-child interaction, and parenting skills; (iii) classes on morals or ethics; (iv) academic classes; (v) cognitive behavioral treatment; (vi) mentoring; (vii) substance abuse treatment; (viii) vocational training; (ix) faith-based classes or services; (x) civic engagement and reintegrative community services; (xi) a prison job, including through a prison work program; or (xii) victim impact classes or other restorative justice programs

8. What does “productive activity” mean under the Prison Reform and Redemption Act?

Answer: “a group or individual activity that is designed to allow prisoners determined as having a low or no risk of recidivating to remain productive and thereby maintain a low or no risk of recidivating”

9. Who is ineligible for the benefits of the Prison Reform and Redemption Act?

Answer: There are a long list of exclusions. Generally speaking, individuals convicted of violent offenses are excluded. Drug crimes which resulted in serious bodily injury or death are excluded. ACCA offenders are excluded. The list of exclusions is too long to put in this FAQ.

10. What else is in the Prison Reform and Redemption Act?

Answer:

- The bill allows BOP guards to store their personal guns outside the secure perimeter when at work.
- The bill also curtails the use of restraints on pregnant prisoners.
- The bill requires BOP staff to under “de-escalation” training.
- The bill requires the BOP to make e-mail communication between prisoners and their lawyers confidential.

- The bill modifies 18 USC 3582 to allow federal prisoners to seek compassionate release from their sentencing court if the Director of the BOP refuses or fail to request such relief.
- Finally, the bill allows prisoners 60 years of age or older who have served two thirds of their sentence to serve the rest of their time on home confinement. Offenders excluded from the time credits are excluded from this program as well. This program would only be authorized for fiscal years 2018 to 2022.