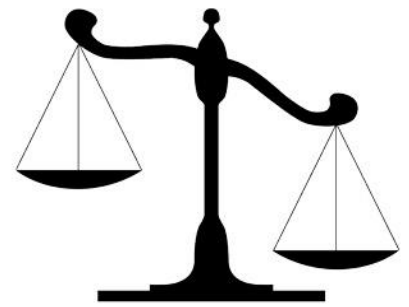


Criminal Justice Reform

LEGISLATIVE UPDATE

Summer 2022

JCPA | JEWISH COUNCIL
FOR PUBLIC AFFAIRS



Introduction

While national news headlines have focused on the ongoing, but so far unsuccessful, effort to reach a compromise on police reform legislation, Congress has begun to consider other criminal justice reform legislation across a spectrum of topics. There are several pieces of legislation Congress is actively considering that could move forward later in the year or early in 2022.

As part of our Criminal Justice Initiative, JCPA is producing this legislative update to inform the Jewish community relations field about Congressional criminal justice legislative efforts that JCPA supports, and action needed if appropriate.

Sentencing

Three sentencing reform bills have already been approved in bipartisan votes by the Senate Judiciary Committee in 2021, where they were introduced jointly by the Chair and Ranking Republican, Senators Dick Durbin (D-IL) and Chuck Grassley (R-IA). The bills now await consideration by the full Senate and need at least 10 Republican Senators. Each bill is short by a handful of those votes.

Current rumors are that those negotiating are “close” to a resolution packaging the three bills together. Given the timing, however, it now seems likely that the package will be considered in the lame duck session after the 2022 election in November. Even that is uncertain.

As part of the Interfaith Criminal Justice Coalition’s advocacy for the Senate package, JCPA joined with in [sending a letter](#) to all Senators, and we are

focusing lobbying on Republican Senate offices.

Bills included in the package:

[First Step Implementation Act \(S. 1014/H.R. 3510\)](#)

The First Step Implementation Act would retroactively apply major sentencing reforms from the First Step Act of 2018 and provide judges in future cases increased discretion to give sentences below mandatory minimums. The bill would also implement major reforms for people sentenced as youth, including the opportunity to have lengthy sentences reconsidered.

[COVID-19 Safer Detention Act \(S. 312/H.R. 3669\)](#)

The COVID-19 Safer Detention Act would make clarifications and technical improvements to the federal Elderly Home Detention Pilot program and compassionate release process. The bill would provide eligibility in these programs to additional vulnerable, low-risk incarcerated people and expedite releases from federal prison through these programs during the COVID 19 pandemic. It is intended to be to expand the number of people who can benefit from earlier release from federal prisons during the pandemic.

[Prohibiting Punishment of Acquitted Conduct Act \(S. 601/H.R.1621\)](#)

The Prohibiting Punishment of Acquitted Conduct Act would end the practice of judges increasing sentences based on conduct for which a person has been acquitted. This practice is unfortunately common, even though it appears to “convict” a person for a crime for which that person was already acquitted. The bill would also allow a prior acquittal to be used as mitigation in sentencing for some other conviction. Passed the House by vote of 405-12 on March 28, 2022.

The package may also be updated to include three additional bills: the Begin Again Act (S. 2502/H.R. 1924), Criminal Judicial Administration Act (S. 3271/H.R. 2694), and Driving for Opportunity Act (S. 998/H.R. 2453).

Drug Policy

[Eliminating a Quantifiably Unjust Application of the Law \(EQUAL\) Act \(S. 79/H.R. 1693\)](#) —

Current law subjects those with 28 grams of crack cocaine to the same penalty as those with 500 grams of powdered cocaine. This bill would eliminate the disparity in sentencing between crack and powder cocaine, changing the law so that those with 500 grams of crack cocaine would be subject to the same sentencing as those with 500 grams of powdered cocaine. It would also permit those sentenced for crack cocaine offenses under the previous disparity to petition the original sentencing court for a reduction of sentences. H.R. 1693 passed House by vote of 361-66 on September 28, 2021.

With 11 Senate Republican cosponsors, it should be straightforward to bring the EQUAL Act to the floor, but as of now, there is no guarantee that those Senators will not vote for amendments (e.g., substituting in a more conservative bill or parts of it). So, Democratic leadership is cautious about floor consideration.

Possible alternative path to passage? The House included the EQUAL Act as part of the National Defense Authorization Act for 2023, passed on July 14, 2022. This bill is considered a “must pass” every year, and so inclusion of EQUAL in this bill could be a powerful push to get EQUAL passed, whether as part of the NDAA or as a free-standing bill. This amendment was added based at the request of a strong bipartisan group of Representatives.

Reentry

Lifetime SNAP/TANF Ban Repeal — People with criminal records are currently prohibited from accessing federal safety net programs, such as the Supplemental Nutrition Assistance Program (SNAP, formerly “food stamps”) and Temporary Assistance for Needy Families. Advocates are

aiming to reverse this ban on receiving in the 2023 Farm Bill. Advocates are gearing up to get the Administration to support the change and to put together a multi-group coalition to lobby on this.

Appropriations

The Senate FY23 appropriations bill includes increased funding over FY22 enacted levels, including \$471 million for the Office on Juvenile Justice and Delinquency Prevention, which includes a new program to assist states in transitioning from youth incarceration to community-based alternatives, and \$732 million for the Office on Violence Against Women. It also would provide the full request level of \$409 million to continue implementation of the First Step Act, as well as continued funding at FY 2022 levels (elevated from previous years) for reentry programs.

Prison Reform

Solitary Confinement — The National Religious Committee Against Torture (NRCAT) is promoting legislation to establish a commission on solitary confinement to oversee a one-year study on the effects of solitary and to establish national standards on the use of solitary. The bill has significant bipartisan support in the House. It was introduced by Representatives David Trone (D-MD) and Stephanie Bice (R-OK) in mid-June. NRCAT is spearheading an effort to generate substantial co-sponsorship. JCPA is actively aiding in this effort.

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