



December 18, 2018

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable Charles E. Schumer  
Minority Leader  
United States Senate  
Washington, D.C. 20510

**Re: THE ACLU AND THE LEADERSHIP CONFERENCE URGE YOU TO VOTE NO ON ALL AMENDMENTS TO S.756**

Dear Majority Leader McConnell and Minority Leader Schumer,

On behalf of the American Civil Liberties Union (ACLU) and The Leadership Conference on Civil and Human Rights, **we write to urge you to vote NO on all amendments to S. 756, the FIRST STEP Act.** This legislation is a next step towards desperately needed federal criminal justice reform, but for all its benefits, much more needs to be done.

The ACLU and The Leadership Conference oppose the Cotton-Kennedy amendments to the FIRST STEP Act, and all other amendments. The Cotton-Kennedy amendment #4109 (Div. I, II, and III) serves no other purpose but to undermine the bipartisan support for the revised FIRST STEP Act and ultimately attempts to kill the bill.

- Division 1 of amendment #4109 to mandate victim notification and publicizing rearrests data sounds innocuous, but is unnecessary under current law, would risk retraumatizing victims, violates privacy standards, and compromises the reentry process.
- Division 2 of amendment #4109 would burden prison wardens with the responsibility for victim notifications of release and solicit and review victims' statements prior to a person's transition to community corrections. Again, this additional responsibility is burdensome for a system already overtaxed and current law permits victims to receive notifications of release if they so choose.
- Division 3 of amendment #4109 creates a new list of unnecessary exclusions to the earned-time credit program – there are already a large number of exclusions, and any additions further weaken the bill's impact. The core of the prison reform bill promoted by conservatives rests on the theory that the new risk and needs assessment system in the bill will effectively determine those individuals who have successfully reduced their recidivism "risk," are classified as minimum or low risk to public safety, and are thus eligible to use their earned time credits toward early release to community corrections. Further, **the U.S. Sentencing Commission estimates that this amendment could be interpreted to exclude as many as 30,000 people from benefiting from earn time credit.** In our view, if you support the risk and needs assessment system, which is a core piece of the bill, then you should oppose any additional exclusions based solely on the type of offense.

**Finally, A vote in favor of any of these amendments is ultimately a vote against the bill. For these reasons, we urge you to vote NO on all amendments. If these amendments are adopted, the ACLU and The Leadership Conference will have to reevaluate our support for this legislation. We will score your votes in our updated scorecards for the 115<sup>th</sup> Congress.**

If you have any additional questions, please feel free to contact Jesselyn McCurdy, Deputy Director, ACLU Washington Legislative Office, at [jmccurdy@aclu.org](mailto:jmccurdy@aclu.org) or (202) 675-2307 or Sakira Cook, Program Director, Justice Reform, The Leadership Conference, at [cook@civilrights.org](mailto:cook@civilrights.org) or (202) 263-2894.

Sincerely,



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cc: Members of the U.S. Senate