

Cotton-Kennedy Amendments to the First Step Act:

Informing Victims, Tracking Effectiveness, and Excluding Sex Offenders and Violent Felons from Early Release

Offenders convicted of coercing a child into illicit sexual activity or child pornography under 18 U.S.C. § 2422(b) are still eligible for early prerelease custody or supervised release in the final First Step Act.

AMENDMENT 1: Excluding serious felons from early release to prerelease custody and supervised release

The First Step Act already excludes some classes of felons from using the bill's early release time credits to transfer into prerelease custody or supervised release for up to one-third of their sentences. This list has grown as we have identified dangerous crimes—but it is still inadequate. For example, according to career sex-crimes prosecutors, 18 U.S.C. § 2422(b) is a commonly used statute to prosecute attempted child molesters. Prisoners convicted of this statute are still eligible for early release under the revised bill.

This amendment adds nine serious, violent, or sex-related criminal statutes to the “ineligible prisoners” list, excluding them from early release. These offenders will still receive anti-recidivism programming and are eligible to earn other incentives, but will not be granted early release compared with current law.

Additional crimes to add to the “ineligible prisoners” list:

- | | |
|--|---------------------|
| 1. Coercing a child to engage in prostitution or any sexual activity | 18 U.S.C. § 2422(b) |
| 2. Carjacking with intent to cause death or serious bodily harm | 18 U.S.C. § 2119(1) |
| 3. Assaulting a law enforcement officer | 18 U.S.C. § 111(a) |
| 4. Bank robbery by force or violence putting life in jeopardy | 18 U.S.C. § 2113(d) |
| 5. Assisting federal prisoners with jailbreak | 18 U.S.C. § 752 |
| 6. Hate crimes | 18 U.S.C. § 249 |
| 7. Assault, including assaulting a child | 18 U.S.C. § 113(a) |
| 8. Other felony sex crimes under federal law | |
| 9. Other felony crimes of violence under federal law | |

AMENDMENT 2: Notifying victims before an offender is allowed to transfer out of prison early

This amendment would require the warden to notify each victim, when applicable, before an offender is transferred early into prerelease custody or supervised release. It would give the victim an option to make a statement to the warden before the offender is released.

AMENDMENT 3: Tracking the effectiveness of the anti-recidivism programs

This amendment would create transparency by requiring the Bureau of Prisons to track the rearrest data for each prisoner who is transferred out of prison early into supervised release or prerelease custody. This will provide valuable data to measure the effectiveness of the evidence-based anti-recidivism programs in the bill.

All Three Amendments Are Supported by the National Association of Assistant U.S. Attorneys, the Federal Law Enforcement Officers Association, the National Association of Police Organizations, and victims rights groups Force 100 and Arizona Voices for Crime Victims