

105TH CONGRESS  
1ST SESSION

# S. 1357

To require States to bear the responsibility for the consequences of releasing violent criminals from custody before the expiration of the full term of imprisonment to which they are sentenced.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 1997

Mr. DORGAN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To require States to bear the responsibility for the consequences of releasing violent criminals from custody before the expiration of the full term of imprisonment to which they are sentenced.

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 “Fairness and Incarcer-  
5 ation Responsibility (FAIR) Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

1           (1) violent criminals often serve only a portion  
2           of the terms of imprisonment to which they are sen-  
3           tenced;

4           (2) a significant proportion of the most serious  
5           crimes of violence committed in the United States  
6           are committed by criminals who have been released  
7           early from a term of imprisonment to which they  
8           were sentenced for a prior conviction for a crime of  
9           violence;

10          (3) violent criminals who are released before the  
11          expiration of the term of imprisonment to which  
12          they were sentenced often travel to other States to  
13          commit subsequent crimes of violence;

14          (4) crimes of violence and the threat of crimes  
15          of violence committed by violent criminals who are  
16          released from prison before the expiration of the  
17          term of imprisonment to which they were sentenced  
18          affect tourism, economic development, use of the  
19          interstate highway system, federally owned or sup-  
20          ported facilities, and other commercial activities of  
21          individuals; and

22          (5) the policies of one State regarding the early  
23          release of criminals sentenced in that State for a  
24          crime of violence often affect the citizens of other

1 States, who can influence those policies only through  
 2 Federal law.

3 (b) PURPOSE.—The purpose of this Act is to require  
 4 States to bear the responsibility for the consequences of  
 5 releasing violent criminals from custody before the expira-  
 6 tion of the full term of imprisonment to which they are  
 7 sentenced.

8 **SEC. 3. ELIGIBILITY FOR VIOLENT OFFENDER INCARCER-**  
 9 **ATION GRANTS.**

10 Section 20103(a) of the Violent Crime Control and  
 11 Law Enforcement Act of 1994 (42 U.S.C. 13703(a)) is  
 12 amended—

13 (1) by striking “the State has implemented”  
 14 and inserting the following: “the State—

15 “(1) has implemented”;

16 (2) by striking the period at the end and insert-  
 17 ing “; and”; and

18 (3) by adding at the end the following:

19 “(2) has enacted and implemented a State law  
 20 providing that a victim (or in the case of a homicide,  
 21 the family of the victim) of a crime of violence (as  
 22 defined in section 16 of title 18, United States  
 23 Code) shall have a Federal cause of action in any  
 24 district court of the United States against the State  
 25 for the recovery of actual (not punitive) damages

1 (direct and indirect) resulting from the crime of vio-  
 2 lence, if the individual convicted of committing the  
 3 crime of violence—

4 “(A) had previously been convicted by the  
 5 State of a crime of violence committed on a dif-  
 6 ferent occasion than the crime of violence at  
 7 issue;

8 “(B) was released before serving the full  
 9 term of imprisonment to which the individual  
 10 was sentenced for that offense; and

11 “(C) committed the subsequent crime of vi-  
 12 olence at issue before the original term of im-  
 13 prisonment described in subparagraph (B)  
 14 would have expired.”.

15 **SEC. 4. ELIGIBILITY FOR TRUTH-IN-SENTENCING INCEN-**  
 16 **TIVE GRANTS.**

17 Section 20104 of the Violent Crime Control and Law  
 18 Enforcement Act of 1994 (42 U.S.C. 13704) is amend-  
 19 ed—

20 (1) by striking “85 percent” each place that  
 21 term appears and inserting “100 percent”; and

22 (2) by adding at the end the following:

23 “(c) WAIVER OF SOVEREIGN IMMUNITY.—Notwith-  
 24 standing subsection (a), in addition to the requirements  
 25 of that subsection, to be eligible to receive a grant award

1 under this section, each application submitted under sub-  
 2 section (a) shall demonstrate that the State has enacted  
 3 and implemented, a State law providing that a victim (or  
 4 in the case of a homicide, the family of the victim) of a  
 5 crime of violence (as defined in section 16 of title 18, Unit-  
 6 ed States Code) shall have a Federal cause of action in  
 7 any district court of the United States against the State  
 8 for the recovery of actual (not punitive) damages (direct  
 9 and indirect) resulting from the crime of violence, if the  
 10 individual convicted of committing the crime of violence—

11           “(1) had previously been convicted by the State  
 12           of a crime of violence committed on a different occa-  
 13           sion than the crime of violence at issue;

14           “(2) was released before serving the full term  
 15           of imprisonment to which the individual was sen-  
 16           tenced for that offense; and

17           “(3) committed the subsequent crime of vio-  
 18           lence at issue before the original term of imprison-  
 19           ment described in paragraph (2) would have ex-  
 20           pired.”.

21 **SEC. 5. EFFECTIVE DATE.**

22           This Act and the amendments made by this Act shall  
 23 take effect 3 years after the date of enactment of this Act.

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