

Sentencing Reform Sections¹ of the First Step Act of 2018, effective December 21, 2018

	Pre-First Step Act	Post-First Step Act	Applicability
21 U.S.C. §§ 841(b)(1)(A) and 960(b)(1)	Mandatory minimum 20 years for 1 prior conviction for a felony drug offense	Mandatory minimum 15 years for 1 prior final conviction for a serious drug felony or serious violent felony Serious drug felony means an offense described in 18 U.S.C. § 924(e) and offender served term of imprisonment of more than 12 months and offender was released from any term of imprisonment within 15 years of the commencement of the instant offense Serious violent felony means: 1) an offense described in 18 U.S.C. § 3559(c)(2) and any assault that would be a felony under 18 U.S.C. § 113 if committed in the special and territorial jurisdiction; and 2) offender served a term of imprisonment more than 12 months	Ameliorative provisions apply to any offense that was committed before December 21, 2018, if a sentence for the offense has not been imposed as of such date. It would violate Ex Post Facto clause to enhance a sentence for an offense committed before enactment based on a prior “serious violent felony”
21 U.S.C. § 841(b)(1)(A)	Mandatory minimum life for 2 prior convictions for felony drug offenses	Mandatory minimum 25 years for 2 prior final convictions for serious drug felonies or serious violent felonies For definition of serious drug felony or serious violent felony, see above	See above
21 U.S.C. §§ 841(b)(1)(B) and 960(b)(2)	Mandatory minimum 10 years for 1 prior conviction for a felony drug offense	Mandatory minimum 10 years for 1 prior final conviction for a serious drug felony or serious violent felony For definition of serious drug felony or serious violent felony, see above	See above
18 U.S.C. § 3553(f) – Safety Valve	The defendant does not have more than 1 criminal history point Does not apply to the MDLEA, 46 U.S.C. §§ 70503, 70506	The defendant does not have more than 4 criminal history points, excluding any criminal history points resulting from a 1-point offense; not have a prior 3-point offense; and not have a prior 2-point violent offense Applies to the MDLEA, 46 U.S.C. §§ 70503, 70506 Violent offense means a crime of violence, as defined in 18 U.S.C. § 16, that is punishable by imprisonment	Provisions apply only to a conviction entered on or after December 21, 2018
18 U.S.C. § 924(c)(1)(C)	Stacking of 25-year consecutive sentence permitted	New law violation must occur after a prior conviction has become final for enhanced sentence of 25 years’ consecutive to be allowed	Provision applies to an offense that was committed before December 21, 2018, if a sentence for the offense has not been imposed as of such date
Fair Sentencing Act of 2010	The Fair Sentencing Act (FSA) of 2010 only applied to offenses committed August 3, 2010 and after	Any prisoner who was convicted of a “violation of a Federal criminal statute, the statutory penalties for which were modified by section 2 or 3 of the Fair Sentencing Act of 2010 [] that was committed before August 3, 2010,” is eligible to seek a reduced sentence.	Sections 2 and 3 of the Fair Sentencing Act of 2010 were made retroactive to offenses committed before August 3, 2010 CAUTION – Individuals have only one opportunity to file a motion under the Act; if you have a former FSA-eligible client, please contact the federal defender in your district

¹ Other sections of the First Step Act of 2018 are not included in this chart.