No. 25-818

IN THE

Supreme Court of the United States

TERRELL ANTHONY HARGROVE,

Petitioner,

v.

IAN HEALY, WARDEN,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

BRIEF OF THE CATO INSTITUTE, THE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS, THE RUTHERFORD INSTITUTE, AND THE LAW ENFORCEMENT ACTION PARTNERSHIP AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF *AMICI CURIAE*[1]

The Cato Institute is a nonpartisan public policy research foundation founded in 1977 and dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Project on Criminal Justice was founded in 1999 and focuses on the scope of substantive criminal liability, the proper and effective role of police in their communities, the protection of constitutional and statutory safeguards for criminal suspects and defendants, citizen participation in the criminal justice system, and accountability for law enforcement. Cato has a longstanding interest in criminal justice reforms like the First Step Act and in ensuring that federal sentencing practices comport with the law and constitutional principles.

The National Association of Criminal Defense Lawyers ("NACDL") is a nonprofit voluntary professional bar association that works on behalf of criminal defense attorneys to ensure justice and due process for

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[1] Pursuant to this Court's Rule 37.2, *amici* gave at least 10 days' notice to counsel for petitioner and respondents of their intent to file this brief. Pursuant to this Court's Rule 37.6, *amici* state that no counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the brief's preparation or submission. No person other than *amici* or their counsel made a monetary contribution to the brief's preparation or submission.

those accused of crime or misconduct. NACDL was founded in 1958. It has a nationwide membership of many thousands of direct members, and up to 40,000 with affiliates. NACDL's members include private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges. NACDL is the only nationwide professional bar association for public defenders and private criminal defense lawyers. NACDL is dedicated to advancing the proper, efficient, and just administration of justice. NACDL files numerous *amicus* briefs each year in this Court and other federal and state courts, seeking to provide *amicus* assistance in cases that present issues of broad importance to criminal defendants, criminal defense lawyers, and the criminal justice system as a whole. NACDL attorneys frequently represent defendants both earning and redeeming First Step Act time credits.

The Rutherford Institute is a nonprofit civil liberties organization headquartered in Charlottesville, Virginia. Founded in 1982 by its President, John W. Whitehead, the Institute provides legal assistance at no charge to individuals whose constitutional rights have been threatened or violated and educates the public about constitutional and human rights issues affecting their freedoms. The Rutherford Institute works tirelessly to resist tyranny and threats to freedom by seeking to ensure that the government abides by the rule of law and is held accountable when it infringes on the rights guaranteed by the Constitution and laws of the United States.

The Law Enforcement Action Partnership ("LEAP") is a nonprofit organization whose members include police, prosecutors, judges, corrections officials, and other law enforcement officials advocating

for criminal justice and drug policy reforms that will make our communities safer and more just. Founded by five police officers in 2002 with a sole focus on drug policy, today LEAP's speakers' bureau numbers more than 275 criminal justice professionals advising on police-community relations, incarceration, harm reduction, drug policy, and global issues. Through speaking engagements, media appearances, testimony, and support of allied efforts, LEAP reaches audiences across a wide spectrum of affiliations and beliefs, calling for more practical and ethical policies from a public safety perspective. LEAP's members regularly interact with defendants on supervised release and in prerelease custody. LEAP has an interest in ensuring that First Step Act time credits remain a positive and potent incentive for incarcerated people to engage in rehabilitative programming.

SUMMARY OF ARGUMENT

The First Step Act of 2018 was "the most significant criminal justice reform bill in a generation." 164 Cong. Rec. S7649 (daily ed. Dec. 17, 2018) (statement of Sen. Grassley). As part of the Act's reforms, Congress sought to encourage inmates' efforts at rehabilitation by rewarding those efforts with the measurable, predictable reduction of time spent under restrictive federal control. To that end, the Act created "time credits" that defendants may earn by participating in rehabilitative programming. The Act directed that those credits "shall be applied toward time in prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C). The question presented in this case, concerning the proper interpretation of that directive, carries significant real-world consequences for the administration of federal sentencing nationwide.

Over a strong dissent, the Sixth Circuit majority below—joining two other circuits—construed the relevant statutory provision, Section 3632(d)(4)(C), to allow time credits to be used only to accelerate release *from prison*. Under this view, prisoners may not apply time credits to reduce the time they will spend in prerelease custody or on supervised release. That narrow interpretation contradicts the statute's plain text, which speaks expressly in terms of "time in" those post-incarceration phases of federal control. Nor can it be reconciled with the structure or purposes of the First Step Act.

The Ninth Circuit and many district courts around the country, by contrast, have correctly interpreted Section 3632(d)(4)(C) to give full effect to Congress's statutory directive and stated aims. Those courts interpret Section 3632(d)(4)(C) to permit time credits to accelerate release from prison *and* to shorten prerelease custody and supervised release. That reading ensures that rehabilitation efforts produce real reductions in the duration of federal restrictions on individuals' liberty through the end of their sentences, thereby preserving the incentive structure Congress created.

This Court should grant review and reject the Sixth Circuit's cramped interpretation of Section 3632(d)(4)(C). Proper application of that provision is exceptionally important to incarcerated and recently incarcerated individuals. Most federal sentences do not end at the prison gates. Instead, the overwhelming majority involve prerelease custody, supervised release, or both—periods that follow incarceration and continue to impose concrete constraints on liberty. During these phases, individuals remain subject to federal control over basic aspects of their daily life

and face the ongoing risk of reincarceration for violations of release conditions.

Applying Section 3632(d)(4)(C) to shorten the duration of these ongoing restraints for individuals who have earned time credits accords with the Act's purposes. The Act was designed to better balance public safety with liberty, including by aligning punishment more closely with rehabilitation and ensuring that demonstrable rehabilitative success yields predictable, sentence-wide benefits. Tens of thousands of individuals across the country have already relied upon the statutory promise of time credits in deciding whether to participate in Bureau of Prisons programming. Interpreting Section 3632(d)(4)(C) to exclude prerelease custody and supervised release undermines Congress's chosen mechanism for translating rehabilitative effort into earlier restoration of liberty and weakens the incentives on which that system depends.

The panel's erroneous interpretation also undercuts another of the Act's aims: reducing the public costs of mass incarceration and supervision. By decreasing incentives to participate in rehabilitative programming and by prolonging periods of prerelease custody and supervised release, the approach adopted below increases correctional expenditures *directly* through longer federal supervision. It also increases costs *indirectly*. Participation in prison programming is strongly associated with reduced recidivism; by diminishing the practical value of such programming and making participation less attractive, the Sixth Circuit's approach will lead to more reoffenses—and thus more public money spent on prosecution, incarceration, and supervision. Increased crime will also cause broader social costs, including to victims, communities, and local economies. These effects invert

Congress's design, which sought to *reduce* recidivism and public spending.

This Court's intervention is necessary to vindicate the Act's design and purpose, resolve an entrenched conflict in the lower courts, and ensure the uniform application of federal sentencing law nationwide. The petition should be granted.

ARGUMENT

I. THIS CASE PRESENTS AN EXCEPTIONALLY IMPORTANT ISSUE THAT AFFECTS THE LIVES OF TENS OF THOUSANDS OF INCARCERATED OR RECENTLY INCARCERATED PEOPLE.

For most federal inmates, supervision does not end when they exit the prison gates. Congress instead structured sentencing as a continuum of restraint: sentences begin in prison and then very often continue through prerelease custody, supervised release, or both. During these latter phases, individuals are subject to significant federal control over their daily lives. The government decides where people may live, work, and travel; how they interact with family and community; and whether they face reincarceration through revocation of release. *See Supervised Release Primer* ("*Primer*"), Off. Gen. Counsel U.S. Sentencing Comm'n ("U.S.S.C."), at 5–13 (2021), https://tinyurl.com/yxrcfspz. Because prerelease custody and supervised release are common components of federal sentences, the interpretation of Section 3632(d)(4)(C)—and, in particular, whether time credits may shorten those phases—directly affects the lived reality of federal punishment for a large portion of the incarcerated or recently incarcerated population.

Prerelease custody, as its name suggests, is a form of federal custody. Following imprisonment, individuals may be placed in prerelease custody, such as home confinement or a halfway house, for up to twelve months. 18 U.S.C. § 3624(c). During this period, individuals are formally "in [federal Bureau of Prisons] custody" until "finally released." *First Step Act: Earned Time Credits*, U.S.S.C. (Dec. 2024), https://tinyurl.com/2yvzu584; 18 U.S.C. § 3624(c)(3) ("prelease custody"). Those in prerelease custody are subject to rules and restrictions that, in important respects, resemble those governing imprisonment—including 24-hour monitoring and strict limits on movement. *See* 18 U.S.C. § 3624(c)(2). In 2023, more than 10,500 people passed through this phase before entering supervised release. *Location Prior to Release from FBOP Custody*, U.S.S.C. (Dec. 11, 2024), https://tinyurl.com/2p9uez3d.

Congress specifically linked prerelease custody to the First Step Act's time-credit system. Individuals are eligible for a greater portion of their sentence (more than one year) to be spent in prerelease custody if they have "earned time credits" while in prison. 18 U.S.C. § 3624(g)(1)(A). It would make little sense for Congress to hinge eligibility for extended prerelease custody on time credits, yet treat those same credits as categorically irrelevant once that custodial phase begins.

Supervised release, the most common mode of federal control after incarceration, likewise imposes substantial restraints on liberty. Over ninety percent of federal prisoners are subject to supervised release as part of their sentences. *QuickFacts: Supervised Release*, U.S.S.C. (2024), https://tinyurl.com/2pysz3mu. Courts impose supervised release at sentencing when

required by statute or as a matter of judicial discretion, considering the same sentencing factors that govern imprisonment when setting the length and conditions of supervised release. *Primer* at 2–3 (citing 18 U.S.C. § 3553(a)). Those conditions curtail supervisees' daily liberties and can include mandatory drug testing, regular searches, work and residence requirements, and myriad other intrusive demands. U.S. Sentencing Guideline § 5D1.3.

The defining feature of supervised release is the ever-present threat of revocation. Any violation of a release condition may result in reincarceration. *Primer* at 15–19. Supervised release, while formally noncustodial, thus commonly results in a custodial sentence upon revocation. Courts need not credit time previously served on supervision when imposing a revocation prison term, 18 U.S.C. § 3583(e)(3), and revocation sentences "generally should" be served consecutively to any other term of imprisonment, U.S.S.G. § 7C1.4. Because revocation results in imprisonment, the imposition and enforcement of supervised-release conditions trigger significant constitutional and statutory protections. *Primer* at 8–9, 15–16. By law, for instance, conditions must involve "no greater deprivation of liberty than is reasonably necessary." 18 U.S.C. § 3583(d)(2).

These ongoing restrictive features distinguish prerelease custody and supervised release from the "collateral consequences" of a conviction "upon reentering society." *Collateral Consequences*, U.S. Comm'n Civil Rts., at 1 (June 13, 2019), https://tinyurl.com/3v93pb5z. Prerelease custody and supervised release are integral components of a federal sentence, enforced through federal authority, backed by

the continuing possibility of incarceration, and characterized by constant monitoring and control over the person. The duration of these phases determines how long individuals remain subject to federal punishment in a concrete and coercive sense.

Because prerelease custody and supervised release are commonplace, the proper interpretation of Section 3632(d)(4)(C) has far-reaching practical consequences. It determines whether time credits may affect only the initial term of imprisonment or also the later phases of a federal sentence during which liberty remains substantially constrained. That exceptionally important issue—which will alter the duration of federal custody and control for tens of thousands of persons—warrants this Court's review.

II. CONGRESS DESIGNED THE FIRST STEP ACT TO BETTER PROMOTE LIBERTY, INCLUDING BY REWARDING REHABILITATION WITH EARLIER RELEASE FROM FEDERAL CONTROL.

Congress enacted the First Step Act to reform a federal sentencing regime that imposes prolonged restraints on liberty extending well beyond the prison term itself. That regime drew widespread criticism for producing unduly harsh sentences and excessive, often counterproductive, federal control, even for nonviolent offenders. *See Hewitt v. United States*, 606 U.S. 419, 435–36 (2025). The "bipartisan" coalition that enacted the legislation was explicitly focused on enhancing "liberty," proportionality, and rehabilitation in the criminal-justice system. 164 Cong. Rec. H10363 (daily ed. Dec. 20, 2018) (statement of Rep. Jeffries); *see* 164 Cong. Rec. S7764 (daily ed. Dec. 18, 2018) (statement of Sen. Booker); *United States v. Mitchell*, 38 F.4th 382, 384 (3d Cir. 2022) ("In 2018, the President signed the First Step Act, bipartisan

legislation implementing long-sought-after criminal-justice reform.").

Consistent with those goals, Congress made a structural choice in the Act to formalize how rehabilitative success would lead to increased liberty. Rather than relying solely on discretionary sentence reductions or ad hoc release decisions, Congress created the time-credits system to shorten the period during which the federal government restrains an individual's liberty based on demonstrated rehabilitation. The foundation of that regime is a comprehensive "risk and needs assessment" framework for incarcerated individuals to enhance rehabilitation and public safety through "evidence-based" programming targeting recidivism risks. H. Rep. No. 115-699, at 22 (2018). Congress required the Bureau of Prisons to implement an ongoing assessment system throughout the federal prisons that identifies inmates' "criminogenic needs," assigns them "evidence-based" programming to address their specific needs, and "reassess[es]" individuals' risk of recidivism at regular intervals. 18 U.S.C. § 3632(a). Legislators described this framework as the "basis" of the Act's "recidivism reduction program," 164 Cong. Rec. at H10361 (statement of Rep. Goodlatte), which is intended to inform release decisions and reentry timing, *see* H. Rep. No. 115-699, at 22.

The tangible consequences of this rehabilitative framework come in the form of time credits. Individuals earn credits through successful completion of qualifying programs and productive activities, with enhanced accrual for individuals who maintain low or reduced recidivism-risk levels. 18 U.S.C. § 3632(d)(4)(A). As Congress explained, time credits

operate as "rewards" for participation in programming. H. Rep. No. 115-699, at 28. Statements by legislators confirm that Congress intended credits to function as meaningful incentives tied directly to sentence length. 164 Cong. Rec. at S7745 (statement of Sen. Blumenthal).

Congress made an equally deliberate choice about where time credits would operate. Rather than limiting credits to the prison term alone, Congress directed that time credits "shall be applied toward time in prerelease custody or supervised release." 18 U.S.C. § 3632(d)(4)(C). In doing so, Congress recognized that these phases impose meaningful restraints on liberty. And with the exception of serious offenders who are barred from earning time credits, *id.* § 3632(d)(4)(D), all other offenders are eligible to earn credits. For the eligible population, time credits lose much of their intended value if they shorten only incarceration while leaving untouched the other, post-incarceration phases of federal control that Congress expressly identified in the Act.

Time credits now operate at scale, and prison officials structure programming, placement, and release planning around their expected effect, which likewise drives inmates' decisions to participate in prison programming. Nearly 17,500 prisoners who earned time credits were released from incarceration in 2023, with an average of 10.3 months credited. *First Step Act Earned Time Credits: Key Takeaways*, U.S.S.C. (Dec. 11, 2024), https://tinyurl.com/3shc6zhf. And the Department of Justice reported that, as of January 2024, 32,508 individuals in secure custody were expected to receive an earlier release date or transfer to prerelease custody through time credits. *First Step Act Annual Report*, U.S. Dep't of Justice, at 20 (June 2024),

https://tinyurl.com/yebwh4sb. Interpreting Section 3632(d)(4)(C) to deny effect to those credits during prerelease custody or supervised release disrupts the statutory bargain on which inmates' participation decisions have been—and continue to be—based.

Time credits also fit naturally within the broader statutory framework governing supervised release, which is designed to promote "liberty." 18 U.S.C. § 3583(d)(2). Courts have long had discretionary authority to shorten supervised-release terms for high-performing defendants. *Id.* § 3583(e). The Act's program-based, mandatory credit system advances the same principle in a more predictable and uniform manner, ensuring that supervised release involves "no greater deprivation of liberty than is reasonably necessary." *Id.* § 3583(d)(2). Whereas the old system depended on case-specific judicial discretion, the new one ensures predictable, earned reductions—including during supervised release—tied to rehabilitation.

In short, allowing individuals to earn greater liberty was at the heart of the First Step Act's design. Interpreting time credits to apply only to accelerate release from incarceration, but not to shorten other liberty-restricting phases of federal supervision, cannot be squared with that congressional plan.

III. THE DECISION BELOW UNDERMINES THE PURPOSES OF THE FIRST STEP ACT.

The Sixth Circuit's reading also undermines the aims of the First Step Act. It reduces inmates' incentives to earn time credits, creates unwarranted federal sentencing disparities, and increases federal spending on incarceration and supervision.

A. The Interpretation Adopted Below Reduces Incentives To Rehabilitate And Produces Sentencing Disparities.

The First Step Act promises predictable rewards for successful participation in rehabilitation programming. 18 U.S.C. § 3632(d). The basis for the Act's time-credit regime is the commonsense premise that prisoners are more likely to engage in evidence-based programs when doing so results in concrete, time-based reductions in federal control. *See* 164 Cong. Rec. at S7769 (statement of Sen. Portman). As the dissenting judge recognized below, "the First Step Act streamlines the rehabilitative process" by "incentivizing prisoners to engage in programming while incarcerated." Pet. App. 25a (Moore, J., dissenting). And when credits "reduce time in imprisonment, in prerelease custody, or in supervised release, their incentive value is maximized." *Gonzalez v. Herrera*, 151 F.4th 1076, 1088 (9th Cir. 2025). Applying time credits to all phases of incarceration thus supports the "incentive[]" structure Congress created. H. Rep. No. 115-699, at 22.

The Sixth Circuit's interpretation, on the other hand, substantially weakens that structure. Under the majority's reading, time credits cease to have practical value once they can no longer further shorten the term of imprisonment. That approach "perversely encourages prisoners to participate in as little programming as is necessary to achieve early release, but no more than that." Pet. App. 25a (Moore, J., dissenting). If additional rehabilitative effort no longer leads to reductions in restraint, rational inmates have little reason to continue participating.

That disincentive is compounded by another aspect of the decision below. The majority assumes that

individuals may not even *earn* credits when they live outside the prison walls, either in prerelease custody or on supervised release. Pet. App. 6a–7a. But the Act plainly contemplates that "prisoners" may earn time credits from rehabilitative programming, 18 U.S.C. § 3632(d)(4)(A), and "prisoner" is defined to include any person "in the custody of the Bureau of Prisons," including at least those in prerelease custody, *id.* § 3635(4). If individuals are *earning* credits, they should be able to *apply* those credits to their current phase of a federal sentence. Other courts have recognized the value of allowing new credits to be earned after incarceration. The Ninth Circuit, for example, noted that one defendant "continued his FSA-eligible programming" during "home confinement" and, "having earned time credits along the way, he sought to use those credits for early reentry into society." *Gonzalez*, 151 F.4th at 1079. This possibility—continued participation producing continued, tangible benefits—is foreclosed by the Sixth Circuit's reading.

Judicial disagreement on how time credits may be used is now entrenched along geographic lines. The First Step Act was enacted in part to "address inherent disparities in our sentencing laws." 164 Cong. Rec. at H10362 (statement of Rep. Collins). Yet the Sixth Circuit's decision deepens a circuit split that ensures similarly situated individuals will serve meaningfully different sentences depending solely on where they are confined or reside. In some circuits, rehabilitative effort yields reductions across the full span of federal control; in others, like the Sixth Circuit, it does not.

This Court has repeatedly emphasized the "need for uniformity and consistency of federal criminal

law," warning against the "significant danger of inconsistent application" across jurisdictions. *Tafflin v. Levitt*, 493 U.S. 455, 464–65 (1990). The Sentencing Guidelines were originally enacted to address the "shameful" and "unjustified" variation that resulted from the earlier, "indeterminate" system. *Mistretta v. United States*, 488 U.S. 361, 366 (1989). Such inconsistency "was a serious impediment to an evenhanded and effective operation of the criminal justice system." *Id.* Indeed, uniformity is a mandatory sentencing factor, *see* 18 U.S.C. § 3553(a)(6), whose "primary purpose" is to "reduce unwarranted sentence disparities on a *nationwide* level," *United States v. Sampson*, 898 F.3d 287, 314 (2d Cir. 2018) (internal quotation marks omitted); *see United States v. Simmons*, 501 F.3d 620, 624 (6th Cir. 2007) (collecting cases).

These principles leave no room for a sentencing regime in which the effect of congressionally mandated time credits depends on the circuit in which an inmate happens to be confined. But at present, the practical duration of federal sentences turns in part on geography rather than on rehabilitative effort. Leaving the decision below in place would therefore undermine both the Act's incentive structure and its commitment to national uniformity in sentencing. These failures warrant this Court's intervention.

B. The Interpretation Adopted Below Exacerbates The Fiscal Impact Of Mass Incarceration.

The decision below also frustrates another key objective of the First Step Act: mitigating the fiscal impact of mass incarceration. Congress enacted the Act against a backdrop of high incarceration costs and persistent recidivism, aiming not only to improve public safety but also to "control corrections spending." H.

Rep. No. 115-699, at 22. The Act's time-credit system was central to that cost-saving design. By offering rewards for participation in evidence-based programming, Congress sought both to shorten expensive periods of federal control and to reduce recidivism—and thus the number of costly returns to custody.

That fiscal objective featured prominently in debates on the Act. One legislator emphasized that the Act would "save taxpayer dollars" otherwise expended on excessive punishment. 164 Cong. Rec. at H10363 (statement of Rep. Jeffries). Another observed that the status quo—a revolving door of recidivism and additional incarceration—is "costing us money." *Id.* at H10364 (statement of Rep. Jackson-Lee). Still another described the Act as "historic legislation that will . . . save taxpayer money." *Id.* at H10362 (statement of Rep. Collins).

Through the First Step Act, Congress therefore pursued what one supporter labeled a "morals and money" approach. 164 Cong. Rec. at H10362 (statement of Rep. Collins). In other words, as Congress undertook the morally necessary task of reducing needlessly long sentences and mitigating unwarranted sentencing disparities, it also sought to alleviate burdens on the public fisc by legislating new incentives for inmates to get out—and stay out—of the criminal-justice system.

Reducing recidivism was seen as a central mechanism to rein in spending. In the House, for example, Representative Collins argued that the "cycle of recidivism drains taxpayer dollars [and] strains the limited resources at the Department of Justice." 164 Cong. Rec. at H10362 (statement of Rep. Collins). The House Report thus concluded that it is in the "fiscal interest of the government to reduce recidivism." H.

Rep. No. 115-699, at 22. Senators sounded similar themes. Senator Cornyn emphasized that recidivism "leaves taxpayers with the bill." 164 Cong. Rec. at 7641–42. And Senator Portman observed that when an offender reoffends and is reincarcerated, the "taxpayer ends up picking up the tab." *Id*. at S7769.

Statistics bear out those legislators' recidivism-related concerns. According to Bureau of Prisons data cited in the House Report, within eight years of release, 49.3% of offenders are re-arrested, 31.7% are reconvicted, and 24.7% are re-incarcerated. H. Rep. No. 115-699, at 22. Each arrest, prosecution, and re-imprisonment imposes significant public costs. The cost of housing a single federal inmate can exceed $50,000 per year. *See The Public Costs of Supervision Versus Detention*, U.S. Courts (June 5, 2025), https://tinyurl.com/3eebfvsv. Recidivism thus directly inflates public spending on the criminal-justice system.

At the same time, the empirical record demonstrates that recidivism is reducible. Participation in rehabilitative programming has been shown to dramatically lower reoffense rates. According to a Department of Justice publication, for example, inmates who participate in Bureau of Prisons educational programs are *43% less likely* to reoffend. *See Prison Reform: Reducing Recidivism by Strengthening the Federal Bureau of Prisons*, U.S. Dep't of Justice (June 5, 2025), https://tinyurl.com/ytp8vmt2. Maximizing participation in such programs is essential to controlling long-term costs.

The interpretation of Section 3632(d)(4)(C) adopted by the majority below, however, undermines Congress's cost-saving goals in two ways. First, by requiring released inmates to remain in prerelease custody or on supervised release for the full original term

imposed at sentencing, rather than on a term reduced through time credits, the decision directly increases supervision costs. That consequence alone carries significant fiscal implications. According to statistics from the Administrative Office of U.S. Courts, supervised release costs nearly $5,000 per year per supervisee*, see The Public Costs of Supervision Versus Detention*, *supra*, and there are approximately 100,000 individuals on supervised release nationwide, *see QuickFacts*, *supra*. Prerelease custody costs $35,663 annually for each inmate, not far off from the price of full incarceration. *Annual Determination of Average Cost of Incarceration Fee*, 86 Fed. Reg. 49,060, 49,060 (Sept. 1, 2021); *The Public Costs of Supervision Versus Detention*, *supra*. And the number of individuals in prerelease custody is likewise substantial—halfway houses alone lodged more than 8,200 inmates in 2024. Erik Ortiz, *Despite First Step Act, Some Federal Inmates Remain in Prison Extra Months*, NBCNews.com (June 1, 2024), https://tinyurl.com/2zt5eyv6. Requiring individuals in these phases to serve out full terms meaningfully swells federal expenditures—particularly in cases where continued supervision is unnecessary to ensure a successful transition to civilian life.[2]

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[2] Recent amendments to the Sentencing Guidelines reinforce that requiring supervisees to remain on supervised release unnecessarily represents a drain on public resources. Guideline § 5D1.4 now encourages courts to modify or terminate supervised release when the circumstances warrant, explaining that early termination helps allocate scarce government resources to those most in need of continued supervision. *See* Amendment 835 to § 5D1.4, U.S.S.C. (Nov. 2025), https://tinyurl.com/muujab2b.

Second, and more broadly, by weakening the incentive structure Congress relied upon to drive participation in rehabilitative programming, the Sixth Circuit's approach will increase recidivism-related costs. As incentives weaken, participation will predictably decline; as participation declines, recidivism will rise; and as recidivism rises, correctional and enforcement costs will follow as a matter of course. Society at large will also bear additional "social costs of crime," whether "in the form of lower property values, reduced business investment," "lost economic opportunity," or otherwise. *Returns on Investments in Recidivism-reducing Programs*, Council of Economic Advisers, at 3 (May 2018), https://tinyurl.com/bm6n45uu. Hence, the decision below will aggravate, rather than mitigate, both recidivism and the long-term fiscal burden on the federal government, the States, and the public—the opposite of what Congress sought to achieve with the First Step Act.

Accordingly, the substantial fiscal consequences of an improper interpretation of Section 3632(d)(4)(C) reinforce the need for this Court's review.

CONCLUSION

The petition for certiorari should be granted.

Respectfully submitted.

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February 11, 2026