

**ADDENDUM TO THE
INTERNAL PROCEDURES FOR PROCESSING CASES INVOLVING RETROACTIVE
APPLICATION OF THE FAIR SENTENCING ACT OF 2010
PURSUANT TO THE FIRST STEP ACT OF 2018**

**FOR CASES BEFORE THE COURT FOR
SUPERVISED RELEASE VIOLATION PROCEEDINGS**

Section 404 of the First Step Act (FSA) of 2018 grants the Court discretion to retroactively apply the Fair Sentencing Act of 2010 in certain cases. For defendants who are before the Court for supervised release violation (SRV) proceedings, it would be helpful to the Court to know whether the FSA potentially applies before the matter comes before the Court for a violation hearing. Therefore, to provide the Court with information on the impact of the FSA for defendants on supervised release (1) who have a SRV petition filed and/or who have a pending violation hearing and (2) who have not filed a FSA motion:

- The Probation Office will review the case to determine whether there is a potential FSA impact.
- If there is a potential FSA impact, the Probation Office will draft and disclose in CM/ECF a memorandum outlining the FSA impact in conjunction with, or immediately following, the filing of the 12C Supplement for the SRV. The 12C Supplement and the FSA memorandum will be filed as separate documents in CM/ECF; however, there will be a notation in the 12C Supplement to indicate the possible FSA implications.
- **Both the Government and counsel for the Defendant must file position papers regarding the FSA memorandum at least 21 days prior to the scheduled SRV hearing.** The appointment of counsel for the SRV proceeding includes the FSA issue if a FSA memorandum has been filed by the Probation Office pursuant to these procedures.
- The Court may issue a ruling on the application of the FSA either prior to or at the same time as the SRV hearing.