

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend section 3661 of title 18, United States Code, to prohibit the consideration of acquitted conduct at sentencing.

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IN THE SENATE OF THE UNITED STATES

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Mr. DURBIN (for himself, Mr. GRASSLEY, Mr. BOOKER, Mr. LEE, Mr. OSSOFF, Mr. KENNEDY, Ms. KLOBUCHAR, Ms. LUMMIS, Ms. BALDWIN, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend section 3661 of title 18, United States Code, to prohibit the consideration of acquitted conduct at sentencing.

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 “Prohibiting Punish-  
5       ment of Acquired Conduct Act of 2023”.

6       **SEC. 2. ACQUITTED CONDUCT AT SENTENCING.**

7       (a) USE OF INFORMATION FOR SENTENCING.—

8               (1) AMENDMENT.—Section 3661 of title 18,  
9       United States Code, is amended by inserting “, ex-

1       cept that a court of the United States shall not con-  
2       sider, except for purposes of mitigating a sentence,  
3       acquitted conduct under this section” before the pe-  
4       riod at the end.

5           (2) APPLICABILITY.—The amendment made by  
6       paragraph (1) shall apply only to a judgment en-  
7       tered on or after the date of enactment of this Act.

8       (b) DEFINITIONS.—Section 3673 of title 18, United  
9       States Code, is amended—

10           (1) in the matter preceding paragraph (1), by  
11       striking “As” and inserting the following:

12       “(a) As”; and

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

14       “(b) As used in this chapter, the term ‘acquitted con-  
15       duct’ means—

16           “(1) an act—

17               “(A) for which a person was criminally  
18               charged and adjudicated not guilty after trial in  
19               a Federal, State, or Tribal court; or

20               “(B) in the case of a juvenile, that was  
21               charged and for which the juvenile was found  
22               not responsible after a juvenile adjudication  
23               hearing; or

24           “(2) any act underlying a criminal charge or ju-  
25       venile information dismissed—

1                   “(A) in a Federal court upon a motion for  
2                   acquittal under rule 29 of the Federal Rules of  
3                   Criminal Procedure; or

4                   “(B) in a State or Tribal court upon a mo-  
5                   tion for acquittal or an analogous motion under  
6                   the applicable State or Tribal rule of criminal  
7                   procedure.”.