

S 1410 IS

113th CONGRESS
1st Session
S. 1410

To focus limited Federal resources on the most serious offenders.

IN THE SENATE OF THE UNITED STATES

July 31, 2013

Mr. DURBIN (for himself, Mr. LEE, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To focus limited Federal resources on the most serious offenders.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Smarter Sentencing Act of 2013'.

SEC. 2. APPLICABILITY OF STATUTORY MINIMUMS.

Section 3553(f)(1) of title 18, United States Code, is amended by striking `defendant' and all that follows through `point' and inserting `criminal history category for the defendant is not higher than category 2'.

SEC. 3. CLARIFICATION OF APPLICABILITY OF THE FAIR SENTENCING ACT.

(a) Definition of Covered Offense- In this section, the term `covered offense' means 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 (Public Law 111-220; 124 Stat. 2372), that was committed before August 3, 2010.

(b) Defendants Previously Sentenced- A court that imposed a sentence for a covered offense, may, on motion of the defendant, the Director

of the Bureau of Prisons, the attorney for the Government, or the court, impose a reduced sentence as if sections 2 and 3 of the Fair Sentencing Act of 2010 (Public Law 111-220; 124 Stat. 2372) were in effect at the time the covered offense was committed.

(c) Limitations- No court shall entertain a motion made under this section to reduce a sentence if the sentence was previously imposed or previously reduced in accordance with the amendments made by sections 2 and 3 of the Fair Sentencing Act of 2010 (Public Law 111-220; 124 Stat. 2372) or if a motion made under this section to reduce the sentence was previously denied. Nothing in this section shall be construed to require a court to reduce any sentence pursuant to this section.

SEC. 4. SENTENCING MODIFICATIONS FOR CERTAIN DRUG OFFENSES.

(a) Controlled Substances Act- Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended--

(1) in subparagraph (A), in the flush text following clause (viii)--

(A) by striking `10 years or more' and inserting `5 years or more'; and

(B) by striking `such person shall be sentenced to a term of imprisonment which may not be less than 20 years and' and inserting `such person shall be sentenced to a term of imprisonment which may not be less than 10 years and'; and

(2) in subparagraph (B), in the flush text following clause (viii)--

(A) by striking `5 years' and inserting `2 years'; and

(B) by striking `not be less than 10 years' and inserting `not be less than 5 years'.

(b) Controlled Substances Import and Export Act- Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended--

(1) in paragraph (1), in the flush text following subparagraph (H)--

(A) by striking `not less than 10 years' and inserting `not less than 5 years'; and

(B) by striking `such person shall be sentenced to a term of imprisonment of not less than 20 years' and inserting `such person shall be sentenced to a term of imprisonment of not less than 10 years'; and

(2) in paragraph (2), in the flush text following subparagraph (H)--

(A) by striking `5 years' and inserting `2 years'; and

(B) by striking ` 10 years' and inserting ` 5 years'.

SEC. 5. DIRECTIVE TO THE SENTENCING COMMISSION.

(a) Directive to Sentencing Commission- Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, if appropriate, its guidelines and its policy statements applicable to persons convicted of an offense under section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to ensure that the guidelines and policy statements are consistent with the amendments made by sections 2 and 4 of this Act and reflect the intent of Congress that such penalties be decreased in accordance with the amendments made by section 4 of this Act.

(b) Considerations- In carrying out this section, the United States Sentencing Commission shall consider--

(1) the mandate of the United States Sentencing Commission, under section 994(g) of title 28, United States Code, to formulate the sentencing guidelines in such a way as to `minimize the likelihood that the Federal prison population will exceed the capacity of the Federal prisons';

(2) the findings and conclusions of the United States Sentencing Commission in its October 2011 report to Congress entitled, Mandatory Minimum Penalties in the Federal Criminal Justice System;

(3) the fiscal implications of any amendments or revisions to the sentencing guidelines or policy statements made by the United States Sentencing Commission;

(4) the relevant public safety concerns involved in the considerations before the United States Sentencing Commission;

(5) the intent of Congress that penalties for violent and serious drug traffickers who present public safety risks remain appropriately severe; and

(6) the need to reduce and prevent racial disparities in Federal sentencing.

(c) Emergency Authority- The United States Sentencing Commission shall--

(1) promulgate the guidelines, policy statements, or amendments provided for in this Act as soon as practicable, and in any event not later than 120 days after the date of enactment of this Act, in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note), as though the authority under that Act had not expired; and

(2) pursuant to the emergency authority provided under paragraph (1), make such conforming amendments to the Federal sentencing guidelines as the Commission determines necessary to achieve consistency with other guideline provisions and applicable law.

SEC. 6. REPORT BY ATTORNEY GENERAL.

Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report outlining how the reduced expenditures on Federal corrections and the cost savings resulting from this Act will be used to help reduce overcrowding in the Federal Bureau of Prisons, help increase proper investment in law enforcement and crime prevention, and help reduce criminal recidivism, thereby increasing the effectiveness of Federal criminal justice spending.

END