

## SPEED TRAFFICKING LIFE IN PRISON ACT OF 1998

SEPTEMBER 14, 1998.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. MCCOLLUM, from the Committee on the Judiciary,  
submitted the following

### R E P O R T

together with

### DISSENTING VIEWS

[To accompany H.R. 3898]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3898) to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to conform penalties for violations involving certain amounts of methamphetamine to penalties for violations involving similar amounts of cocaine base, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Speed Trafficking Life In Prison Act of 1998”.

**SEC. 2. METHAMPHETAMINE TRAFFICKING PENALTY ADJUSTMENTS.**

(a) AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.—The Controlled Substances Act is amended—

- (1) in section 401(b)(1)(A)(viii) (21 U.S.C. 841(b)(1)(A)(viii)) by—
  - (A) striking “100 grams” and inserting “50 grams”; and
  - (B) striking “1 kilogram” and inserting “500 grams”; and
- (2) in section 401(b)(1)(B)(viii) (21 U.S.C. 841(b)(1)(B)(viii)) by—
  - (A) striking “10 grams” and inserting “5 grams”; and
  - (B) striking “100 grams” and inserting “50 grams”.

(b) AMENDMENTS TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—The Controlled Substances Import and Export Act is amended—

- (1) in section 1010(b)(1)(H) (21 U.S.C. 960(b)(1)(H)) by—
  - (A) striking “100 grams” and inserting “50 grams”; and
  - (B) striking “1 kilogram” and inserting “500 grams”; and
  - (C) striking the period at the end and inserting a semicolon; and
- (2) in section 1010(b)(2)(H) (21 U.S.C. 960(b)(2)(H)) by—
  - (A) striking “10 grams” and inserting “5 grams”; and
  - (B) striking “100 grams” and inserting “50 grams”; and
  - (C) striking the period at the end and inserting a semicolon.

**SEC. 3. PREPARATION OF AN IMPACT STATEMENT.**

The United States Sentencing Commission shall prepare a statement analyzing the impact of the sentences imposed as a result of the amendments made by this Act and present that analysis to Congress not later than one year after the date of the enactment of this Act.

**PURPOSE AND SUMMARY**

H.R. 3898 increases the penalties for manufacturing, trafficking, or importing methamphetamine so as to make them the same as crack cocaine, by reducing by one-half the quantity of methamphetamine required to trigger the mandatory minimum prison sentences established in section 841 and 960 of title 21, United States Code. Under current law, 100 grams of methamphetamine triggers the ten-year mandatory minimum and ten grams triggers the five-year mandatory minimum. In both cases, under current law, an offender with prior felony drug offenses can receive life in prison, as can an offender when the use of the methamphetamine leads to the death or serious bodily injury of another. Under the bill, fifty grams triggers a ten-year mandatory minimum prison sentence and five grams of methamphetamine triggers a five-year mandatory minimum prison sentence.

**BACKGROUND AND NEED FOR THE LEGISLATION**

Methamphetamine is no longer a problem confined to California and the Southwest, but has spread east, devastating some communities much like cocaine did in the 1980s. The testimony received in recent years paints a grim picture of an emerging epidemic: emergency room methamphetamine episodes in major metropolitan areas have increased dramatically; methamphetamine deaths in Los Angeles, San Diego, and San Francisco have increased 130 percent since 1991, and increased nationally by 144 percent; and clan-

destine methamphetamine labs have now been reported in all fifty States.

There are numerous unique problems associated with methamphetamine. The profits involved in the methamphetamine trade are enormous. Methamphetamine causes longer highs than cocaine. Methamphetamine is processed in clandestine labs often located in remote areas, making them difficult to detect. And the numerous chemicals used in the manufacturing of the final product are extremely flammable and destructive to the environment. Over the last eight years, Mexican drug organizations have replaced motorcycle gangs as the major methamphetamine producers and traffickers. Mexican traffickers have established large clandestine labs throughout the southwest, and have saturated the western U.S. market with high-purity methamphetamine, leading to lower prices. In short, methamphetamine represents a dangerous, time-consuming, and expensive investigative challenge to law enforcement.

The mandatory sentences in the bill are identical to those called for in the Administration's Methamphetamine Strategy (April, 1996). The House of Representatives passed a nearly identical provision in the 104th Congress as part of H.R. 3852, the "Comprehensive Methamphetamine Control Act of 1996," by a vote of 386 to 34. The Senate version of the same bill did not include this penalty enhancement provision. Consequently, the provision did not become law.

#### COMMITTEE CONSIDERATION

On June 5, 1998, the Subcommittee on Crime met in open session and ordered reported the bill H.R. 3898, without amendment by voice vote, a quorum being present. On July 21, 1998, the Committee met in open session and ordered reported favorably the bill H.R. 3898, with an amendment, by a recorded vote of 21 to 6, a quorum being present.

#### VOTE OF THE COMMITTEE

There were two recorded votes (one on an amendment and one on final passage) during the Committee's consideration of H.R. 3898, as follows:

1. Amendment offered by Mr. Frank relating to a directive to the United States Sentencing Commission to conduct a study of penalties for trafficking in methamphetamine. The amendment was defeated by a vote of 6-21.

	Ayes	Nays
Mr. Sensenbrenner .....		
Mr. McCollum .....		X
Mr. Gekas .....		X
Mr. Coble .....		X
Mr. Smith (TX) .....		X
Mr. Gallegly .....		X
Mr. Canady .....		X
Mr. Inglis .....		
Mr. Goodlatte .....		X
Mr. Buyer .....		X
Mr. Bryant .....		X
Mr. Chabot .....		X

	Ayes	Nays
Mr. Barr .....		
Mr. Jenkins .....		X
Mr. Hutchinson .....		X
Mr. Pease .....		X
Mr. Cannon .....		X
Mr. Rogan .....		X
Mr. Graham .....		X
Ms. Bono .....		X
Mr. Conyers .....	X	
Mr. Frank .....	X	
Mr. Schumer .....		
Mr. Berman .....		
Mr. Boucher .....		
Mr. Nadler .....		
Mr. Scott .....	X	
Mr. Watt .....	X	
Ms. Lofgren .....		
Ms. Jackson Lee .....		X
Ms. Waters .....	X	
Mr. Meehan .....		
Mr. Delahunt .....	X	
Mr. Wexler .....		
Mr. Rothman .....		X
Mr. Hyde, Chairman .....		X
Total .....	6	21

## 2. Vote on Final Passage 21–6.

	Ayes	Nays
Mr. Sensenbrenner .....		
Mr. McCollum .....	X	
Mr. Gekas .....	X	
Mr. Coble .....	X	
Mr. Smith (TX) .....	X	
Mr. Gallegly .....		
Mr. Canady .....	X	
Mr. Inglis .....	X	
Mr. Goodlatte .....	X	
Mr. Buyer .....	X	
Mr. Bryant .....	X	
Mr. Chabot .....	X	
Mr. Barr .....	X	
Mr. Jenkins .....	X	
Mr. Hutchinson .....	X	
Mr. Pease .....	X	
Mr. Cannon .....	X	
Mr. Rogan .....	X	
Mr. Graham .....	X	
Ms. Bono .....	X	
Mr. Conyers .....		X
Mr. Frank .....		X
Mr. Schumer .....		
Mr. Berman .....		
Mr. Boucher .....		
Mr. Nadler .....		
Mr. Scott .....		X
Mr. Watt .....		X
Ms. Lofgren .....	X	
Ms. Jackson Lee .....		
Ms. Waters .....		X
Mr. Meehan .....		
Mr. Delahunt .....		X
Mr. Wexler .....		
Mr. Rothman .....	X	

	Ayes	Nays
Mr. Hyde, Chairman .....	X	.....
Total .....	21	6

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to H.R. 3898, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 3, 1998.*

Hon. HENRY J. HYDE,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3898, the Speed Trafficking Life in Prison Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

#### *H.R. 3898—Speed Trafficking Life in Prison Act of 1998*

This legislation would amend the Controlled Substances Act and the Controlled Substances Import and Export Act to lower the amounts of methamphetamine (speed) that trigger mandatory prison sentences and criminal fines for drug trafficking offenses and to raise certain mandatory sentences and fines. As a result, CBO estimates that enacting H.R. 3898 would result in additional costs to

the federal government to incarcerate prisoners for longer periods of time. We estimate that these costs would total about \$9 million over fiscal years 1999 through 2003, assuming appropriation of the necessary amounts. Because H.R. 3898 could affect direct spending and receipts, pay-as-you-go procedures would apply to the bill; however, CBO estimates that the amounts involved would be less than \$500,000 annually. H.R. 3898 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on the budgets of state, local, or tribal governments.

Current law provides for mandatory minimum prison sentences for drug trafficking offenses involving certain amounts of methamphetamine. For example, a person convicted of distributing 10 grams or more of methamphetamine faces a prison sentence of at least five years. H.R. 3898 would lower the amounts necessary to trigger mandatory sentences (from 10 grams to 5 grams) and would raise the minimum sentence for offenses involving 50 grams from five years to 10 years. The bill also would lower the amounts of methamphetamine necessary to trigger criminal fines. Finally, H.R. 3898 would require the U.S. Sentencing Commission to analyze the impact of the bill's provisions on prison sentences and report to the Congress within one year of enactment.

According to the U.S. Sentencing Commission, the longer sentences required by H.R. 3898 would increase the prison population by roughly 400 prisoners a year by fiscal year 2003. At an annual cost per prisoner of about \$8,700 (at 1998 prices), CBO estimates that the cost to support these additional prisoners would be about \$9 million over the 1999–2003 period. The full budgetary effects of H.R. 3898 would not be realized until after 30 years, when the additional prison population resulting from this bill would stabilize at roughly 1,600 prisoners per year. Assuming no significant change in the number of annual convictions, the cost to the prison system on a long-term basis would reach about \$14 million annually (at 1998 prices), subject to the availability of appropriated funds. According to the Sentencing Commission, the number of methamphetamine offenders prosecuted in federal court increased by 73 percent between 1995 and 1997. If that trend continues, the number of annual convictions would rise significantly, and as a result, costs under H.R. 3898 would be much higher than estimated above. CBO estimates that the analysis required of the U.S. Sentencing Commission would cost less than \$100,000.

Furthermore, a new federal prison would probably have to be constructed between 10 and 20 years after enactment to support the anticipated increase in prison population. Based on information from the Bureau of Prisons, CBO estimates that added construction costs would be about \$85 million (in 1998 dollars).

Enacting H.R. 3898 could increase governmental receipts through greater collections of criminal fines. Because the bill would increase the maximum fine that could be levied for offenses involving certain amounts of methamphetamine, however, CBO does not expect any increased collections of fines to exceed \$500,000 per year. Criminal fines are deposited in the Crime Victims Fund and spent the following year. Thus, any change in direct spending from

the fund would match any increase in revenues attributable to H.R. 3898, with a one-year lag.

The CBO staff contact for this estimate is Mark Grabowicz. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, clause three, section eight of the Constitution.

#### SECTION-BY-SECTION ANALYSIS

*Section 1. Short Title.* This section provides that the Act may be cited as the “Speed Trafficking Life in Prison Act of 1998”.

*Section 2. Methamphetamine Trafficking Penalty Adjustments.* This section amends the Controlled Substances Act and the Controlled Substances Import and Export Act so as to increase the penalties for manufacturing, trafficking, or importing methamphetamine by reducing by one-half the quantity of methamphetamine required to trigger the mandatory minimum prison sentences established in section 841 and 960 of title 21, United States Code. Under current law, 100 grams of pure methamphetamine triggers the ten-year mandatory minimum prison sentence (while 1 kilogram of mixed methamphetamine triggers the same 10-year mandatory minimum) and ten grams triggers the five-year mandatory minimum prison sentence (while 100 grams of mixed methamphetamine triggers the same five-year mandatory minimum). In both cases, under current law, an offender with prior felony drug offenses can receive life in prison, as can an offender when the use of the methamphetamine leads to the death or serious bodily injury of another.

Under section 2(a), the Controlled Substances Act (section 841 of title 21, United States Code) is amended by reducing the quantity threshold for pure methamphetamine from 100 to 50 grams for the 10 year mandatory sentence. It also reduces the quantity threshold for mixed methamphetamine from 1 kilogram to 500 grams for the 10 year mandatory sentence.

Section 2(a) further amends the Controlled Substances Act by reducing the quantity threshold for pure methamphetamine from 10 to 5 grams for the 5 year mandatory sentence. It also reduces the quantity threshold for mixed methamphetamine from 100 grams to 50 grams for the 5 year mandatory sentence.

Under section 2(b), the Controlled Substances Import and Export Act (section 960 of title 21, United States Code) is amended by reducing the quantity threshold for pure methamphetamine from 100 to 50 grams for the 10 year mandatory sentence. It also reduces the quantity threshold for mixed methamphetamine from 1 kilogram to 500 grams for the 10 year mandatory sentence.

Section 2(b) further amends the Controlled Substances Import and Export Act by reducing the quantity threshold for pure methamphetamine from 10 to 5 grams for the 5 year mandatory sentence. It also reduces the quantity threshold for mixed meth-

amphetamine from 100 grams to 50 grams for the 5 year mandatory sentence.

*Section 3. Preparation of an Impact Statement.* This section directs the Sentencing Commission to prepare a statement analyzing the impact of the sentences imposed as a result of this Act and present that analysis to Congress not later than one year after the date of the enactment of this Act.

(Section 841 of title 21, United States Code)

#### AGENCY VIEWS

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, June 16, 1998.

Hon. HENRY J. HYDE,  
Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to provide the Department of Justice's views on H.R. 3898, the "Speed Trafficking Life in Prison Act of 1998." We support the proposed changes to 21 U.S.C. § 841 and 21 U.S.C. § 960 contained in the bill that would reduce the threshold quantities of methamphetamine required for mandatory minimum sentences under these statutes. The amendments made by the bill would conform penalties for violations involving certain amounts of methamphetamine to penalties for violations involving like amounts of cocaine base.

Methamphetamine is a serious drug of abuse whose use pattern and level of associated violence have elements of similarity to that of crack cocaine. For this reason, and because much of the potent methamphetamine available today produces a severe reaction, we believe that the threshold quantities for determining mandatory minimum penalties for methamphetamine should be set at or about the same levels established for crack cocaine, to reflect the destructive effects of methamphetamine.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

L. ANTHONY SUTIN,  
Acting Assistant Attorney General.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### SECTION 401 OF THE CONTROLLED SUBSTANCES ACT

#### PROHIBITED ACTS A—PENALTIES

SEC. 401. (a) \* \* \*

(b) Except as otherwise provided in section 409, 418, 419, or 420 any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(A) In the case of a violation of subsection (a) of this section involving—

(i) \* \* \*

\* \* \* \* \*

(viii) **[100]** 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or **[1 kilogram]** 500 *grams* or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

\* \* \* \* \*

(B) In the case of a violation of subsection (a) of this section involving—

(i) \* \* \*

\* \* \* \* \*

(viii) **[10]** 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or **[100]** 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

\* \* \* \* \*

## SECTION 1010 OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

### PROHIBITED ACTS A—PENALTIES

SEC. 1010. (a) \* \* \*

(b)(1) In the case of a violation of subsection (a) of this section involving—

(A) \* \* \*

\* \* \* \* \*

(H) **[100]** 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or **[1 kilogram]** 500 *grams* or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers~~[.]~~;

\* \* \* \* \*

(2) In the case of a violation of subsection (a) of this section involving—

(A) \* \* \*

\* \* \* \* \*

(H) **[10]** 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or **[100]** 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers~~[.]~~;

\* \* \* \* \*

## DISSENTING VIEWS

On July 21, 1998, the Republican majority on the House Judiciary Committee opted to endorse a faulty solution in search of a problem by favorably reporting to the full House, HR 3898, which would reduce the amount of methamphetamine needed to trigger five and ten year mandatory minimum sentences. In seeking to appear “tough on crime,” the majority has adopted an approach which is weak on positive results. We virulently oppose trafficking in methamphetamine, but we cannot support this legislation which is shortsighted and counterproductive.

At the outset, we strongly believe that this legislation ignores the role of the United States Sentencing Commission (“Commission”) in setting federal sentencing policy. The Commission was created by Congress for the purpose of promulgating sentencing guidelines based on the bipartisan experiences of judges, prosecutors and other criminal justice practitioners. The Commission was designed to insulate these important questions from political influences and to improve the federal sentencing system in a way that would make sentencing less arbitrary and more consistent. The Commission has not suggested this legislation. Yet, the political considerations which the Commission was designed to defuse have led the majority to favorably report this misguided legislation.

The need for this legislation has not been established by sources outside of the Commission. Rather than hold a single hearing on this legislation, the majority merely asserts that the use of methamphetamines in this country is an emerging epidemic. However, there is substantial evidence to the contrary. Between 1995 and 1996, the Substance Abuse and Mental Health Services Administration’s Drug Abuse Network recorded a 33 percent decrease in methamphetamine-related emergency room admissions. The Drug Abuse Network also found a 4.1% decrease in deaths related to methamphetamine between 1994 and 1995 (the latest year such data is available) and an overall decrease in the use of stimulants since 1985. Furthermore, contrary to the majority’s anecdotal evidence of the violence associated with methamphetamine, since 1985 the number of homicide victims found to have tested positive for methamphetamine only slightly increased—from 18 deaths in 1985 to 22 in 1996. In addition, the penalties for methamphetamine related offenses are already severe, the second highest of all drug penalties with an average sentence of 8.1 years.

The majority has selected a draconian “solution” which has continually been proven to be costly, inefficient and unjust—mandatory minimum sentences. Mandatory minimum sentences have led to an explosion in the costs of prisons. The Federal Bureau of Prisons budget increased more than 1,400 percent after the enactment of new mandatory minimum sentences for drug offenses in the Anti-Drug Abuse Act of 1986, jumping from \$220 million in 1986

to \$3.19 billion in 1997. It is well-documented that this is not money well spent. A 1997 study by the Rand Corporation found that “in all cases, conventional enforcement is more cost effective than mandatory minimums, and treatment is more than twice as cost effective as mandatory minimums.”

Finally, the stated purpose of this legislation, according to its proponents, is to make the sentences for trafficking in methamphetamine correspond to the sentences for trafficking in crack cocaine. We believe modeling any sentencing policy after the crack cocaine sentencing policy is unwise because mandatory minimum sentences have failed to significantly reduce trafficking in crack cocaine and have created a criminal justice system which locks up a disproportionate share of minorities, many of whom are African-American, at enormous cost to the taxpayer. Prisons are literally filled with young African-American men and women serving mandatory minimums for crack cocaine trafficking and possession offenses—African-Americans accounted for 88.3% of federal crack cocaine trafficking convictions in 1993, Hispanics 7.1%, Whites 4.1% and others 0.5%. While the majority has cited statistics which indicate that most methamphetamine prosecutions have been against white defendants, the majority’s memorandum to the Judiciary Committee states that the rationale for this legislation is that “Mexican drug organizations have replaced motorcycle gangs as major methamphetamine producers and traffickers.” We are concerned that this citation of a specific ethnic group in the memorandum indicates the potential for the racially selective prosecution of Mexican-Americans in the enforcement of this proposed legislation.

We all agree that drug abuse is a serious problem in our country. However, the need for this legislation has not been established, the solution it proposes is faulty and we therefore dissent from the passage of this legislation.

JOHN CONYERS, Jr.  
JERROLD NADLER.  
BOBBY SCOTT.  
MELVIN L. WATT.  
MAXINE WATERS.

