

111TH CONGRESS
2^D SESSION

H. R. 5232

To amend title 18, United States Code, to permit a court to sentence an offender who is determined to be sexually dangerous to a term of special confinement for the prevention of sexual predation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2010

Mr. KRATOVIL introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To amend title 18, United States Code, to permit a court to sentence an offender who is determined to be sexually dangerous to a term of special confinement for the prevention of sexual predation, and for other purposes.

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 “Sex Crime Re-Entry
5 EvaluationN (SCREEN) Act of 2010”.

1 **SEC. 2. SENTENCE OF SPECIAL CONFINEMENT FOR THE**
 2 **PREVENTION OF SEXUAL PREDATION AU-**
 3 **THORIZED.**

4 Section 3551(b) of title 18, United States Code, is
 5 amended as follows:

- 6 (1) in paragraph (2) by striking “or”;
- 7 (2) in paragraph (3) by striking the period at
 8 the end and inserting “; or”;
- 9 (3) inserting after paragraph (3) the following:
- 10 “(4) in the case of certain offenses, a term of
 11 special confinement for the prevention of sexual pre-
 12 dation as authorized by subchapter E.”; and
- 13 (4) adding after “in addition to any other sen-
 14 tence.” the following: “A sentence to a term of spe-
 15 cial confinement for the prevention of sexual preda-
 16 tion may be imposed in addition to a sentence to a
 17 term of imprisonment.”.

18 **SEC. 3. SENTENCE OF SPECIAL CONFINEMENT FOR THE**
 19 **PREVENTION OF SEXUAL PREDATION.**

20 Chapter 227 of title 18, United States Code, is
 21 amended by adding at the end the following:

22 **“SUBCHAPTER E—SPECIAL CONFINEMENT FOR**
 23 **THE PREVENTION OF SEXUAL PREDATION**

“3587a. Sentence of special confinement for the prevention of sexual predation.

“3587b. Effect of finality of judgment.

“3587c. Right to hearing.

“3587d. Hearings to determine status as a sexually dangerous person.

“3587e. Commencement of sentence.

“3587f. Definitions.

“3587g. Implementation of a sentence of special confinement for the prevention of sexual predation.

1 **“§ 3587a. Sentence of special confinement for the pre-**
 2 **vention of sexual predation**

3 “(a) IN GENERAL.—The court may sentence to a
 4 term of special confinement for the prevention of sexual
 5 predation a defendant who—

6 “(1) has been found guilty of a qualifying of-
 7 fense; and

8 “(2) has been sentenced to a term of imprison-
 9 ment for that qualifying offense.

10 “(b) QUALIFYING OFFENSES.—For purposes of this
 11 section, a qualifying offense is any of the following:

12 “(1) An offense under section 2241.

13 “(2) An offense under section 2242.

14 “(3) An offense under section 2245.

15 “(4) An offense under section 2251(e).

16 “(c) AUTHORIZED TERMS.—The authorized term of
 17 special confinement for the prevention of sexual predation
 18 is for the duration of the defendant’s life.

19 **“§ 3587b. Effect of finality of judgment**

20 “Notwithstanding the fact that a sentence to a term
 21 of special confinement for the prevention of sexual preda-
 22 tion can subsequently be—

23 “(1) corrected under rule 35 of the Federal
 24 Rules of Criminal Procedure and section 3742; or

1 “(2) appealed and modified under section 3742;
2 a judgment of conviction that includes such a sentence
3 constitutes a final judgment for all other purposes.

4 **“§ 3587c. Right to hearing**

5 “The defendant shall have the right to a hearing to
6 determine whether the defendant is a sexually dangerous
7 person. That hearing shall be conducted not earlier than
8 180 days before the scheduled release of the defendant
9 from the custody of the Bureau of Prisons after the term
10 of imprisonment.

11 **“§ 3587d. Hearings to determine status as a sexually**
12 **dangerous person**

13 “(a) IN GENERAL.—Any hearing to determine wheth-
14 er a person sentenced to a term of special confinement
15 for the prevention of sexual predation is a sexually dan-
16 gerous person for purposes of this subchapter or sub-
17 chapter D of chapter 229 shall be conducted as provided
18 under this section.

19 “(b) DISPOSITION.—If the person establishes by clear
20 and convincing evidence that the person is not a sexually
21 dangerous person, the court shall set aside or terminate
22 a sentence to a term of special confinement for the preven-
23 tion of sexual predation and order the release of the per-
24 son as soon as possible after the date that the person is

1 released from the custody of the Bureau of Prisons after
2 a term of imprisonment.

3 “(c) EXAMINATION AND REPORT.—In conducting a
4 hearing under this section, the court shall order an exam-
5 ination of the defendant by a licensed psychologist or psy-
6 chiatrist to determine whether the person is a sexually
7 dangerous person and a report on the results of that ex-
8 amination.

9 “(d) RIGHTS OF PERSON.—

10 “(1) Except as provided in paragraph (2), a
11 hearing under this section shall be conducted in
12 same manner as a hearing under section 4247(d).

13 “(2) The person shall have the right to have the
14 issue of whether that person is a sexually dangerous
15 person determined by a jury impanelled pursuant to
16 chapter 121 of title 28, United States Code.

17 “(e) ROLE OF THE GOVERNMENT.—In a hearing
18 under this section, the attorney for the Government may
19 present evidence, subpoena witnesses, and confront and
20 cross-examine witnesses.

21 **“§ 3587e. Commencement of sentence**

22 “A sentence to a term of special confinement for the
23 prevention of sexual predation commences on the date that
24 the defendant is released from the custody of the Bureau
25 of Prisons after a term of imprisonment.

1 **“§ 3587f. Definitions**

2 “(a) IN GENERAL.—Except as otherwise provided in
3 this subchapter, terms used in this subchapter have the
4 meanings given such terms in section 4247.

5 “(b) SEXUALLY DANGEROUS PERSON.—For pur-
6 poses of this subchapter, the term ‘sexually dangerous per-
7 son’ means an individual who has been convicted of a sex-
8 ual offense that includes violent conduct as an element of
9 the offense, and who suffers from a mental, behavioral,
10 or emotional disorder affecting the emotional or volitional
11 capacity which predisposes that individual toward engag-
12 ing in violent sexual acts to a degree constituting such
13 individual a menace to the health and safety of others.

14 **“§ 3587g. Implementation of a sentence of special con-**
15 **finement for the prevention of sexual pre-**
16 **dation**

17 “The implementation of a sentence of special confine-
18 ment for the prevention of sexual predation is governed
19 by the provisions of subchapter D of chapter 229.”.

20 **SEC. 4. POSTSENTENCE ADMINISTRATION.**

21 Chapter 229 of title 18, United States Code, is
22 amended by adding at the end the following:

23 “SUBCHAPTER D—SPECIAL CONFINEMENT FOR
24 THE PREVENTION OF SEXUAL PREDATION

“3631. Special confinement for the prevention of sexual predation.

“3632. Annual hearings.

“3633. Definitions.

1 **“§ 3631. Special confinement for the prevention of**
 2 **sexual predation**

3 “(a) IN GENERAL.—A person who has been sen-
 4 tenced to a term of special confinement for the prevention
 5 of sexual predation pursuant to the provisions of sub-
 6 chapter E of chapter 227 shall be treated as provided
 7 under subsection (b). The person shall be committed to
 8 the custody of the Attorney General until—

9 “(1) the expiration of the term imposed;

10 “(2) the earlier release of the person pursuant
 11 to a hearing under section 3587d; or

12 “(3) the transfer of that person to the custody
 13 of a State pursuant to subsection (c).

14 “(b) PLACEMENT IN A SUITABLE FACILITY.—If no
 15 State assumes custody and responsibility of the defendant
 16 under subsection (c), the Attorney General shall place the
 17 defendant in a suitable facility for treatment.

18 “(c) STATE CUSTODY.—If the State in which the per-
 19 son was domiciled or tried will assume custody of the per-
 20 son and responsibility for carrying out the sentence of spe-
 21 cial confinement for the prevention of sexual predation in
 22 a manner consistent with the conditions described in sec-
 23 tion 3632, the Attorney General shall commit the defend-
 24 ant to the custody of that State. The Attorney General
 25 shall make every reasonable effort to cause that State to
 26 assume such custody and responsibility.

1 **“§ 3632. Annual hearings**

2 “(a) COMMENCED BY CONFINED PERSON.—The con-
 3 fined person has the right to not more than one hearing
 4 under section 3587d to determine whether the confined
 5 person is a sexually dangerous person for each year that
 6 person is confined.

7 “(b) COMMENCED BY SUPERVISOR CERTIFI-
 8 CATION.—Not more than once each year, the supervisor
 9 of the facility in which the confined person is confined may
 10 commence a hearing under section 3587d to determine
 11 whether the confined person is a sexually dangerous per-
 12 son by filing with the court a certificate stating that the
 13 supervisor believes that person is not a sexually dangerous
 14 person.

15 **“§ 3633. Definitions**

16 “Terms used in this subchapter have the same mean-
 17 ings as terms under subchapter E of chapter 227.”.

18 **SEC. 5. SENTENCE OF SPECIAL CONFINEMENT FOR THE**
 19 **PREVENTION OF SEXUAL PREDATION IM-**
 20 **POSED FOR CERTAIN OFFENSES.**

21 (a) AGGRAVATED SEXUAL ABUSE.—Section 2241 of
 22 title 18, United States Code, is amended by adding at the
 23 end the following:

24 “(e) ADDITIONAL PUNISHMENT.—Whoever commits
 25 an offense under this section and is sentenced to a term
 26 of imprisonment shall, in addition, be punished by special

1 confinement for the prevention of sexual predation for
2 life.”.

3 (b) SEXUAL ABUSE.—Section 2242 of title 18,
4 United States Code, is amended by adding at the end the
5 following: “Whoever commits an offense under this section
6 and is sentenced to a term of imprisonment shall, in addi-
7 tion, be punished by special confinement for the preven-
8 tion of sexual predation for life.”.

9 (c) OFFENSES RESULTING IN DEATH.—Section
10 2245(a) of title 18, United States Code, is amended by
11 adding at the end the following: “Whoever commits an of-
12 fense under this section and is sentenced to a term of im-
13 prisonment shall, in addition, be punished by special con-
14 finement for the prevention of sexual predation for life.”.

15 (d) SEXUAL EXPLOITATION OF CHILDREN.—Section
16 2251(e) of title 18, United States Code, is amended by
17 adding at the end the following: “Whoever commits an of-
18 fense under this section and is sentenced to a term of im-
19 prisonment shall, in addition, be punished by special con-
20 finement for the prevention of sexual predation for life.”.

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