

111TH CONGRESS  
2D SESSION

# H. R. 6548

To apply reduced sentences for certain cocaine base offenses retroactively for certain offenders, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2010

Mr. SCOTT of Virginia introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To apply reduced sentences for certain cocaine base offenses retroactively for certain offenders, 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 “Fair Sentencing Clari-  
5 fication Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) The Fair Sentencing Act of 2010 was  
9 signed into law by President Obama on August 3,  
10 2010.

1           (2) Some district courts in the United States  
2           are applying the Fair Sentencing Act to pending  
3           criminal cases, including *United States v. Douglas*,  
4           \_\_\_\_ F. Supp. 2d \_\_\_\_, 2010 WL 4260221 (D. Me.  
5           Oct. 27, 2010); *United States v. Denton Michael*  
6           *Gillam*, CR No. 10–181–JTN–2 (W.D. Mich. Dec.  
7           3, 2010); and *United States v. Marlon Jermaine*  
8           *Spencer*, CR No. 09–400–JW–1 (N.D. Cal. Nov. 30,  
9           2010).

10           (3) There are, however, district courts that are  
11           not applying the Fair Sentencing Act to pending  
12           cases, including *United States v. Derrick Steven*  
13           *Clemons*, CR No. 08–028–AJS–1 (W.D. of Pa. Nov.  
14           18, 2010) and *United States v. Anthony L. Jackson*,  
15           CR No. 10–178–JRS–1 (E.D. Va. Nov. 19, 2010).

16           (4) The purpose of this Act is to clarify that  
17           the amendments made by the Fair Sentencing Act  
18           are to be applied to pending cases and retroactively  
19           to certain cases that are no longer pending.

20   **SEC. 3. CLARIFICATION OF RETROACTIVITY WITH REGARD**  
21                                   **TO CERTAIN OFFENSES.**

22           With respect to any offense for which the penalties  
23           were modified by section 2 or 3 of the Fair Sentencing  
24           Act of 2010 (Public Law 111–220) but which was com-  
25           mitted before the date of enactment of such Act, and not-

1 withstanding the provisions of section 109 of title 1,  
2 United States Code, a court which has not yet imposed  
3 a sentence for the offense shall impose such sentence as  
4 if sections 2 and 3 of Public Law 111–220 were in effect  
5 at the time the offense was committed.

6 **SEC. 4. COURT MAY REDUCE TERM OF IMPRISONMENT IM-**  
7 **POSED FOR CERTAIN OFFENSES.**

8 In the case of a defendant who has been convicted  
9 of a crime committed before August 3, 2010, and punish-  
10 able by a term of imprisonment under section 404(a) of  
11 the Controlled Substances Act for possession of a sub-  
12 stance which contains cocaine base, under section  
13 401(b)(1)(A)(iii) of such Act, under section  
14 401(b)(1)(B)(iii) of such Act, under section 1010(b)(1)(C)  
15 of such Act, or under section 1010(b)(2)(C) of such Act  
16 (21 U.S.C. 844(a), 841(b)(1)(A)(iii), 841(b)(1)(B)(iii),  
17 960(b)(1)(C), or 960(b)(2)(C)), on motion of the defend-  
18 ant or the Director of the Bureau of Prisons, or on its  
19 own motion, the sentencing court may reduce the term of  
20 imprisonment consistent with the amendments made by  
21 sections 2 and 3 of the Fair Sentencing Act of 2010 (Pub-  
22 lic Law 111–220).

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