H. R. 3713

To reform sentencing laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

October 8, 2015

Mr. Goodlatte (for himself, Mr. Conyers, Ms. Jackson Lee, Mr. Labrador, Mr. Bishop of Michigan, Ms. Judy Chu of California, Mr. Chabot, Mr. Nadler, Mr. Chaffetz, Mr. Cohen, Mr. Collins of Georgia, Mr. Deutch, Mrs. Mimi Walters of California, Ms. DelBene, Mr. Trott, Mr. Cicilline, Mr. Rooney of Florida, and Mr. Pierluisi) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reform sentencing laws, and for other purposes.

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 “Sentencing Reform Act of 2015”.

SEC. 2. REDUCE AND RESTRICT ENHANCED SENTENCING
FOR PRIOR DRUG FELONIES.

(a) CONTROLLED SUBSTANCES ACT AMENDMENTS.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended—

(1) in section 102 (21 U.S.C. 802), by adding at the end the following:

“(57) The term ‘serious drug felony’ means an offense described in section 924(e)(2)(A) of title 18, United States Code, for which the offender served a term of imprisonment of more than 12 months.

“(58) The term ‘serious violent felony’ means an offense—

“(A) described in section 3559(c)(2)(F) of title 18, United States Code, for which the offender served a term of imprisonment of more than 12 months; or

“(B) that would be a felony violation of section 113 of title 18, United States Code, if the offense were committed in the special maritime and territorial jurisdiction of the United States, for which the offender served a term of imprisonment of more than 12 months.”;

(2) in section 401(b)(1) (21 U.S.C. 841(b)(1))—
(A) in subparagraph (A), in the flush text following clause (viii)—

(i) by striking “If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years” and inserting the following: “If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person shall be sentenced to a term of imprisonment of not less than 15 years”; and

(ii) by striking “after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release” and inserting the following: “after 2 or more prior convictions for a serious drug felony or serious violent felony have become final, such person shall be sentenced to a term of imprisonment of not less than 25 years”; and
(B) in subparagraph (B), in the flush text following clause (viii), by striking “If any person commits such a violation after a prior conviction for a felony drug offense has become final” and inserting the following: “If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final”; and

(3) by adding at the end of section 401(b) (21 U.S.C. 841(b)) the following:

“(8) In the case of a violation of subsection (a), if the mixture or substance containing a detectable amount of heroin also contains a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide, then a court shall—

“(A) not impose a term of probation;

“(B) in addition to the term of punishment for the violation of this section, impose a term of imprisonment not to exceed 5 years; and

“(C) no term of imprisonment imposed on a person under subparagraph (B) shall run concurrently with any term of imprisonment im-
posed on the person under any other provision of law.

“(9) In the case of a violation of subsection (a), if the mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide was represented to be or sold as heroin, then a court shall—

“(A) not impose a term of probation;

“(B) in addition to the term of punishment for the violation of this section, impose a term of imprisonment not to exceed 5 years; and

“(C) no term of imprisonment imposed on a person under subparagraph (B) shall run concurrently with any term of imprisonment imposed on the person under any other provision of law.”.

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT AMENDMENTS.—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), by striking “If any person commits such a violation after a prior conviction for a
felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not less than 20 years” and inserting “If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person shall be sentenced to a term of imprisonment of not less than 15 years”;

(2) in paragraph (2), in the flush text following subparagraph (H), by striking “felony drug offense” and inserting “serious drug felony or serious violent felony”; and

(3) by adding at the end the following:

“(8) In the case of a violation of subsection (a), if the mixture or substance containing a detectable amount of heroin also contains a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide, then a court shall—

“(A) not impose a term of probation;

“(B) in addition to the term of punishment for the violation of this section, impose a term of imprisonment not to exceed 5 years; and

“(C) no term of imprisonment imposed on a person under subparagraph (B) shall run con-
currently with any term of imprisonment im-
posed on the person under any other provision
of law.

“(9) In the case of a violation of subsection (a),
if the mixture or substance containing a detectable
amount of N-phenyl-N-[1-(2-phenylethyl)-4-
piperidinyl] propanamide or any analogue of N-
phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]
propanamide was represented to be or sold as her-
oin, then a court shall—

“(A) not impose a term of probation;
“(B) in addition to the term of punishment
for the violation of this section, impose a term
of imprisonment not to exceed 5 years; and
“(C) no term of imprisonment imposed on
a person under subparagraph (B) shall run con-
currently with any term of imprisonment im-
posed on the person under any other provision
of law.”.

(e) APPLICABILITY TO PENDING AND PAST CASES.—
(1) PENDING CASES.—This section, and the
amendments made by this section, shall apply to any
offense that was committed before the date of enact-
ment of this Act, if a sentence for the offense has
not been imposed as of such date of enactment.
(2) **Past cases.**—

(A) **General rule.**—In the case of a defendant (other than a defendant with a prior conviction for a qualifying serious violent felony) who, before the date of enactment of this Act, was convicted of an offense for which the penalty is amended by this section and who was sentenced to a term of imprisonment for the offense, the sentencing court may, on motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, upon prior notice to the Government, reduce the term of imprisonment for the offense, after considering the factors set forth in section 3553(a) of title 18, United States Code, the nature and seriousness of the danger to any person or the community, and the post-sentencing conduct of the defendant, if such a reduction is consistent with this section and the amendments made by this section.

(B) **Definition.**—In this paragraph the term “qualifying serious violent felony” means an offense that—
(i) is a serious violent felony as that term is defined in section 102(58) of the Controlled Substances Act; and

(ii) the conviction carries 3 or more criminal history points as determined under the United States Sentencing Guidelines.

SEC. 3. BROADENING OF EXISTING SAFETY VALVE.

(a) AMENDMENTS.—Section 3553 of title 18, United States Code, is amended—

(1) in subsection (f), by striking paragraph (1) and inserting the following:

“(1) the defendant does not have—

“(A) more than 4 criminal history points as determined under the sentencing guidelines;

“(B) a prior 3-point offense, as determined under the sentencing guidelines;

“(C) a prior 2-point drug trafficking or violent offense, as determined under the sentencing guidelines;”; and

(2) by adding at the end the following:

“(g) INADEQUACY OF CRIMINAL HISTORY.—

“(1) IN GENERAL.—If subsection (f) does not apply to a defendant because the defendant does not meet the requirements described in subsection (f)(1)
(relating to criminal history), the court may, upon prior notice to the Government, waive subsection (f)(1) if the court specifies in writing the specific reasons why reliable information indicates that excluding the defendant pursuant to subsection (f)(1) substantially overrepresents the seriousness of the defendant’s criminal history or the likelihood that the defendant will commit other crimes.

“(2) PROHIBITION.—This subsection shall not apply to any defendant who has been convicted of a serious drug felony or a serious violent felony as defined in paragraphs (57) and (58), respectively, of section 102 of the Controlled Substances Act (21 U.S.C. 802).

“(h) DEFINITIONS.—As used in this section—

“(1) the term ‘drug trafficking offense’ means an offense that is punishable by imprisonment under any law of the United States, or of a State or foreign country, that prohibits or restricts the importation, manufacture, or distribution of controlled substances or the possession of controlled substances with intent to distribute; and

“(2) the term ‘violent offense’ means a ‘crime of violence’, as defined in section 16, that is punishable by imprisonment.”.
(b) APPLICABILITY.—The amendments made by this section shall apply only to a conviction entered on or after the date of enactment of this Act.

SEC. 4. LIMITATION ON APPLICATION OF THE 10-YEAR MANDATORY MINIMUM.

(a) AMENDMENT.—Section 3553 of title 18, United States Code, as amended by section 3, is amended by adding at the end the following:

“(i) LIMITATION ON APPLICABILITY OF CERTAIN STATUTORY MINIMUMS.—Notwithstanding any other provision of law, in the case of a conviction under section 401 or 406 of the Controlled Substances Act (21 U.S.C. 841 and 846) or section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 960 and 963) for which the statutory minimum term of imprisonment is 10 years, the court may impose a sentence as if the statutory minimum term of imprisonment was 5 years, if the court finds at sentencing, after the Government has been afforded the opportunity to make a recommendation, that—

“(1) the defendant does not have a prior conviction for a serious drug felony or serious violent felony as defined in paragraphs (57) and (58), respectively, of section 102 of the Controlled Substances

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Act (21 U.S.C. 802) that was made final prior to the commission of the instant offense;

“(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense, and the offense did not result in death or serious bodily injury to any person;

“(3) the defendant did not play an enhanced role in the offense by acting as an organizer, leader, manager, or supervisor of other participants in the offense, as determined under the sentencing guidelines, or by exercising substantial authority or control over the criminal activity of a criminal organization, regardless of whether the defendant was a member of such organization;

“(4) the defendant did not act as an importer, exporter, high-level distributor or supplier, wholesaler, or manufacturer of the controlled substances involved in the offense or engage in a continuing criminal enterprise, as defined in section 408 of the Controlled Substances Act (21 U.S.C. 848);

“(5) the defendant did not distribute a controlled substance to or with a person under 18 years of age; and
“(6) not later than the time of the sentencing hearing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

“(j) DEFINITIONS.—As used in subsection (i) of this section—

“(1) the term ‘importer, exporter, or high-level distributor or supplier’—

“(A) means a defendant who imported, exported, or otherwise distributed or supplied large quantities of a controlled substance to other drug distributors; and

“(B) does not include a defendant whose role was limited to transporting drugs or money at the direction of others;

“(2) the term ‘manufacturer’ means a defendant who grew, produced, or manufactured a con-
trolled substance and was the principal owner of such controlled substance; and

“(3) the term ‘wholesaler’ means a defendant who sold non-retail quantities of a controlled substance to other dealers or distributors.”.

(b) APPLICABILITY.—The amendment made by this section shall apply only to a conviction entered on or after the date of enactment of this Act.

SEC. 5. CLARIFICATION OF SECTION 924(c) OF TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Section 924(c)(1)(C) of title 18, United States Code, is amended—

(1) in the matter preceding clause (i), by striking “second or subsequent conviction under this subsection” and inserting “violation of this subsection that occurs after a prior conviction under this subsection or under State law for a crime of violence that contains as an element of the offense the carrying, brandishing, or use of a firearm has become final”; and

(2) in clause (i), by striking “not less than 25 years” and inserting “not less than 15 years”.

(b) APPLICABILITY TO PENDING AND PAST CASES.—

(1) PENDING CASES.—This section, and the amendments made by this section, shall apply to any
offense that was committed before the date of enactment of this Act, if a sentence for the offense has not been imposed as of such date of enactment.

(2) Certain past cases.—

(A) General rule.—Except as provided in subparagraph (B), in the case of a defendant who, before the date of enactment of this Act, was convicted of an offense for which the penalty is amended by this section and was sentenced to a term of imprisonment for the offense, the sentencing court may, on motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, upon prior notice to the Government, reduce the term of imprisonment for the offense, after considering the factors set forth in section 3553(a) of title 18, United States Code, the nature and seriousness of the danger to any person or the community, and the post-sentencing conduct of the defendant, if such a reduction is consistent with this section and the amendments made by this section.

(B) Exception.—Subparagraph (A) does not apply in the case of an offense affected by the amendment made in subsection (a)(2) with
regard to a defendant who has a prior conviction for a serious violent felony, as defined in section 102(58) of the Controlled Substances Act.

SEC. 6. AMENDMENT TO CERTAIN PENALTIES FOR CERTAIN FIREARM OFFENSES AND ARMED CAREER CRIMINAL PROVISION.

(a) Amendments.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(2), by striking “not more than 10 years” and inserting “not more than 15 years”; and

(2) in subsection (e)(1), by striking “not less than 15 years” and inserting “not less than 10 years”.

(b) Applicability to Pending and Past Cases.—

(1) Pending cases.—This section, and the amendments made by this section, shall apply to any offense that was committed before the date of enactment of this Act, if a sentence for the offense has not been imposed as of such date of enactment.

(2) Past cases.—In the case of a defendant (other than a defendant with a prior conviction for a serious violent felony, as defined in section 102(58) of the Controlled Substances Act) who, be-
fore the date of enactment of this Act, was convicted
of an offense for which the penalty is amended by
this section and was sentenced to a term of imprison-
ment for the offense, the sentencing court may, on
motion of the defendant or the Director of the Bu-
reau of Prisons, or on its own motion, upon prior
notice to the Government, reduce the term of impris-
onment for the offense, after considering the factors
set forth in section 3553(a) of title 18, United
States Code, the nature and seriousness of the dan-
ger to any person or the community, and the post-
sentencing conduct of the defendant, if such a reduc-
tion is consistent with this section and the amend-
ments made by this section.

SEC. 7. APPLICATION OF 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 Sen-
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 imposed or reduced to a sentence greater than the applicable mandatory minimum 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 pursuant to section 2 or 3 of the Fair Sentencing Act or under this section was denied by a court because a reduction in the defendant’s term of imprisonment would pose a danger to any person or the community or was denied by a court because of the defendant’s post-sentencing conduct. Nothing in this section shall require a court to reduce any sentence pursuant to this section.