Union Calendar No. 698

114TH CONGRESS
2D Session

H. R. 3713

[Report No. 114–888, Part I]

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

DECEMBER 23, 2016

Additional sponsors: Mr. Gutiérrez, Ms. Bass, Mr. Peters, Mr. Young of Iowa, Mr. Ellison, Ms. Brown of Florida, Mr. McNerney, Mr. Rush, Mr. Al Green of Texas, Ms. Eddie Bernice Johnson of Texas, Mr. Clay, Mr. Danny K. Davis of Illinois, Ms. Wilson of Florida, Ms. Gabbard, Mr. Hanna, Mr. Olson, Ms. Jenkins of Kansas, Mr. Welch, Ms. Schakowsky, Mr. Curbelo of Florida, Mrs. Lawrence, Ms. Lee, Ms. Velázquez, Mrs. Beatty, Mr. O’Rourke, Mr. Payne, Mr. Takano, Mr. Higgins, Mr. Kline, Mr. Emmer of Minnesota, Mr. Gene Green of Texas, Mr. Takai, Ms. Kaptur, Mr. McGovern, Mr. Garret, Mr. Vargas, Mr. Kildee, Ms. Fudge, Mr. Polis, Mr. Quigley, Ms. Ros-Lehtinen, Mr. Ryan of Ohio, Mr. Honda, Mr. Lewis, Ms. Slaughter, Mr. Serrano, Mr. Loeb, Mr. Brady of Pennsylvania, Mr. Sean Patrick Maloney of New York, Mr. Levin, Mr. David Scott of Georgia, Mr. Foster, Mrs. Napolitano, Mr. Larsen of Washington, Mr. Blum, Mr. McDermott, Mrs. Love, Mr. Doggett, Mr. Ted Lieu of California, Mrs. Davis of California, Ms. Pingree, and Mr. Sherman
A BILL

To reform sentencing laws, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives 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 of-
fense—

“(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 ju-
risdiction 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”;

(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, in addition to the term of punishment for the violation of this section, impose a term of imprisonment not to exceed 5 years, which shall not run concurrently with any term of imprisonment imposed 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, in addition to the term of punishment for the violation of this section, impose a term of imprisonment not to exceed 5 years, which shall not 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 concurrently with any term of imprisonment imposed 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.”.

(c) **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.**—

(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) 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; or
“(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 MAN-
DATORY MINIMUM.

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

“(i) LIMITATION ON APPLICABILITY OF CERTAIN
STATUTORY MINIMUMS.—Notwithstanding any other provi-
sion 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 min-
imum 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 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 enter-
prise, 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 defend-
ant 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, ex-
ported, 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 controlled 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 reduc-
tion 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 re-
gard 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 fifteen 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 enact-
ment 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, 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.

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 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 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.

**SEC. 8. REPORT ON MANDATORY MINIMUM SENTENCING PROVISIONS.**

(a) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the United States Sentencing Commission, shall sub-
mit to the Committee on the Judiciary of the Senate and
the Committee on the Judiciary of the House of Representa-
tives a report on mandatory minimum sentencing provi-
sions under Federal law.

(b) CONTENTS OF REPORT.—The report submitted
under subsection (a) shall include—

(1) a compilation of all mandatory minimum
sentencing provisions under Federal law;

(2) an assessment of the effect of mandatory
minimum sentencing provisions under Federal law on
the goal of eliminating unwarranted sentencing dis-
parity and other goals of sentencing;

(3) an assessment of the impact of mandatory
minimum sentencing provisions on the Federal prison
population;

(4) an assessment of the compatibility of manda-
tory minimum sentencing provisions under Federal
law and the sentencing guidelines system established
under the Sentencing Reform Act of 1984 (Public
Law 98-473; 98 Stat. 1987) and the sentencing guide-
lines system in place after Booker v. United States,
543 U.S. 220 (2005);

(5) a description of the interaction between man-
datory minimum sentencing provisions under Federal
law and plea agreements; and
(6) any other information that the Attorney General, in consultation with the United States Sentencing Commission, determines would contribute to a thorough assessment of mandatory minimum sentencing provisions under Federal law.

SEC. 9. SENSE OF CONGRESS.

It is the sense of Congress that reform of the criminal justice system, in order to make it more effective, safe, humane, fiscally sustainable, and fair to victims, law enforcement, offenders, and the general public, requires the integration of a mental health component as part of a comprehensive reform strategy. This reform strategy should strive to identify those most in need of mental health services and employ best practices to provide emergency and crisis services, specialized law enforcement response training, court hearings for alternative dispositions, and appropriate community supervision support services.
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