

114TH CONGRESS
1ST SESSION

S. 1138

To reclassify certain low-level felonies as misdemeanors, to eliminate the increased penalties for cocaine offenses where the cocaine involved is cocaine base, to reinvest in our communities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2015

Mr. PAUL (for himself and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reclassify certain low-level felonies as misdemeanors, to eliminate the increased penalties for cocaine offenses where the cocaine involved is cocaine base, to reinvest in our communities, 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 “Reclassification to En-
5 sure Smarter and Equal Treatment Act of 2015” or the
6 “RESET Act”.

1 **SEC. 2. RECLASSIFICATION OF LOW-LEVEL FELONIES.**

2 (a) IN GENERAL.—Part D of the Controlled Sub-
3 stances Act (21 U.S.C. 841 et seq.) is amended—

4 (1) in section 404(a) (21 U.S.C. 844(a))—

5 (A) in the fourth sentence—

6 (i) by striking “2 years” and inserting
7 “1 year”;

8 (ii) by striking “\$2,500” and insert-
9 ing “\$1,000”;

10 (iii) by striking “3 years” and insert-
11 ing “1 year”; and

12 (iv) by striking “\$5,000” and insert-
13 ing “\$1,000”; and

14 (B) by striking the fifth sentence and in-
15 serting the following: “Notwithstanding any
16 penalty provided in this subsection, any person
17 who commits an offense under this subsection
18 for the possession of a date rape drug (as de-
19 fined in section 401(g)(2)) after a prior convic-
20 tion under this title or title III, or a prior con-
21 viction for any drug, narcotic, or chemical of-
22 fense chargeable under the law of any State,
23 has become final, shall be sentenced to a term
24 of imprisonment for not less than 15 days but
25 not more than 2 years, and shall be fined a
26 minimum of \$2,500 and if any person commits

1 such offense after 2 or more prior convictions
 2 under this title or title III, or 2 or more prior
 3 convictions for any drug, narcotic, or chemical
 4 offense chargeable under the law of any State,
 5 or a combination of 2 or more such offenses
 6 have become final, such person shall be sen-
 7 tenced to a term of imprisonment for not less
 8 than 90 days but not more than 3 years, and
 9 shall be fined a minimum of \$5,000.”; and

10 (2) in section 422(b) (21 U.S.C. 863(b)), by
 11 striking “three years” and inserting “1 year”.

12 (b) ELIMINATION OF INCREASED PENALTIES FOR
 13 COCAINE OFFENSES WHERE THE COCAINE INVOLVED IS
 14 COCAINE BASE.—

15 (1) CONTROLLED SUBSTANCES ACT.—The fol-
 16 lowing provisions of the Controlled Substances Act
 17 (21 U.S.C. 801 et seq.) are repealed:

18 (A) Clause (iii) of section 401(b)(1)(A).

19 (B) Clause (iii) of section 401(b)(1)(B).

20 (2) CONTROLLED SUBSTANCES IMPORT AND
 21 EXPORT ACT.—The following provisions of the Con-
 22 trolled Substances Import and Export Act (21
 23 U.S.C. 951 et seq.) are repealed:

24 (A) Subparagraph (C) of section
 25 1010(b)(1).

1 (B) Subparagraph (C) of section
2 1010(b)(2).

3 **SEC. 3. WEIGHING OF CONTROLLED SUBSTANCES MIXED**
4 **WITH FOOD PRODUCTS.**

5 (a) IN GENERAL.—Part D of the Controlled Sub-
6 stances Act (21 U.S.C. 841 et seq.) is amended by adding
7 at the end the following:

8 **“SEC. 424. WEIGHING OF CONTROLLED SUBSTANCES MIXED**
9 **WITH FOOD PRODUCTS.**

10 “In determining the weight of a controlled substance
11 or mixture of controlled substances that is in compound
12 with a food product for purposes of this title or title III,
13 the weight of the food product shall not be included.”.

14 (b) TECHNICAL AND CONFORMING AMENDMENT.—
15 The table of contents for the Controlled Substances Act
16 (21 U.S.C. 801 et seq.) is amended by inserting after the
17 item relating to section 423 the following:

“Sec. 424. Weighing of controlled substances mixed with food products.”.

18 **SEC. 4. APPLICABILITY TO PENDING AND PAST CASES.**

19 (a) PENDING CASES.—This Act, and the amend-
20 ments made by this Act, shall apply to any offense that
21 was committed before the date of enactment of this Act,
22 if a sentence for the offense has not been imposed as of
23 such date of enactment.

24 (b) PAST CASES.—In the case of a defendant who,
25 before the date of enactment of this Act, was convicted

1 of an offense for which the penalty is amended by this
2 Act and was sentenced to a term of imprisonment for the
3 offense, the sentencing court may, on motion of the de-
4 fendant or the Director of the Bureau of Prisons, or on
5 its own motion, reduce the term of imprisonment for the
6 offense, after considering the factors set forth in section
7 3553(a) of title 18, United States Code, to the extent the
8 factors are applicable, if such a reduction is consistent
9 with—

10 (1) this Act and the amendments made by this
11 Act; and

12 (2) applicable policy statements issued by the
13 United States Sentencing Commission.

14 **SEC. 5. EMERGENCY AUTHORITY FOR UNITED STATES SEN-**
15 **TENCING COMMISSION.**

16 (a) REVIEW AND AMENDMENT.—As soon as prac-
17 ticable after the date of enactment of this Act, the United
18 States Sentencing Commission, pursuant to its authority
19 under section 994 of title 28, United States Code, shall
20 review and, if appropriate, amend the Federal sentencing
21 guidelines and policy statements applicable to any person
22 convicted of an offense affected by section 2, 3, or 4.

23 (b) AUTHORIZATION.—In carrying out subsection (a),
24 the Commission may amend the Federal sentencing guide-
25 lines in accordance with the procedures set forth in section

1 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note)
 2 as though the authority under that section had not ex-
 3 pired.

4 **SEC. 6. ESTABLISHMENT OF THE SAFE NEIGHBORHOODS**
 5 **AND SCHOOLS FUND.**

6 (a) ESTABLISHMENT.—A fund to be known as the
 7 “Safe Neighborhoods and Schools Fund” is hereby cre-
 8 ated within the Department of Justice and is continuously
 9 appropriated without regard to fiscal year for carrying out
 10 the purposes of this chapter. For purposes of the calcula-
 11 tions required, funds transferred to the Safe Neighbor-
 12 hoods and Schools Fund shall be considered general fund
 13 revenues which may be appropriated pursuant to Article
 14 I.

15 (b) FUNDING APPROPRIATION.—

16 (1) IN GENERAL.—On or before July 31, 2016,
 17 and on or before July 31 of each fiscal year there-
 18 after, the Department of Justice shall calculate the
 19 savings that accrued from the implementation of the
 20 act adding this chapter (“this act”) during the fiscal
 21 year ending June 30, as compared to the fiscal year
 22 preceding the enactment of this act. In making the
 23 calculation required by this subdivision, the Depart-
 24 ment shall use actual data or best available esti-
 25 mates where actual data is not available. The cal-

1 culation shall be final and shall not be adjusted for
2 any subsequent changes in the underlying data. The
3 Department of Justice shall certify the results of the
4 calculation to Congress no later than August 1 of
5 each fiscal year.

6 (2) TRANSFER OF FUNDS.—Before August 15,
7 2016, and before August 15 of each fiscal year
8 thereafter, the Department shall transfer from the
9 General Fund to the Safe Neighborhoods and
10 Schools Fund the total amount calculated. Funds
11 transferred to the Safe Neighborhoods and Schools
12 Fund shall be used exclusively for the purposes of
13 this act and shall not be subject to appropriation or
14 transfer by the Legislature for any other purpose.
15 The funds in the Safe Neighborhoods and Schools
16 Fund may be used without regard to fiscal year.

17 (c) DISTRIBUTION OF MONEYS FROM THE SAFE
18 NEIGHBORHOODS AND SCHOOLS FUND.—

19 (1) IN GENERAL.—By August 15 of each fiscal
20 year beginning in 2016, the Controller shall disburse
21 moneys deposited in the Safe Neighborhoods and
22 Schools Fund as follows:

23 (A) Fifteen percent to the Department of
24 Education, to administer a grant program to
25 public agencies aimed at improving outcomes

1 for public school pupils in kindergarten and
2 grades 1 to 12, inclusive, by reducing truancy
3 and supporting students who are at risk of
4 dropping out of school or are victims of crime.

5 (B) Ten percent to the Federal Crime Vic-
6 tim Assistance Fund, to make grants to trauma
7 recovery centers to provide services to victims of
8 crime pursuant to 42 U.S. 112.

9 (C) Twenty-five percent to Federal Re-
10 entry/Drug Court programs operated by the
11 U.S. District Courts, U.S. Probation Office,
12 Federal Public Defender and U.S. Attorney's
13 Office to administer a grant program to public
14 agencies aimed at supporting mental health
15 treatment, substance abuse treatment, and di-
16 version programs for people in the criminal jus-
17 tice system, with an emphasis on programs that
18 reduce recidivism of people convicted of less se-
19 rious crimes, such as those covered by this
20 measure, and those who have substance abuse
21 and mental health problems.

22 (D) Fifty percent to the General Treasury
23 in order to pay down the national debt.

24 (2) LIMITATION.—For each program set forth
25 in paragraphs (1) to (3), inclusive, of subdivision

1 (a), the agency responsible for administering the
2 programs shall not spend more than 5 percent of the
3 total funds it receives from the Safe Neighborhoods
4 and Schools Fund on an annual basis for adminis-
5 trative costs.

6 (3) AUDIT.—Every two years, the Department
7 of Justice shall conduct an audit of the grant pro-
8 grams operated by the agencies specified in para-
9 graphs (1) to (3), inclusive, of subdivision (a) to en-
10 sure the funds are disbursed and expended solely ac-
11 cording to this chapter and shall report his or her
12 findings to the relevant Congressional committees.

13 (4) COSTS OF PROGRAM.—Any costs incurred
14 by the Department of Justice in connection with the
15 administration of the Safe Neighborhoods and
16 Schools Fund, including the costs of the calculation
17 and the audit required, shall be deducted from the
18 Safe Neighborhoods and Schools Fund before the
19 funds are disbursed pursuant to subdivision (a). The
20 funding established pursuant to this act shall be
21 used to expand programs for public school pupils in
22 kindergarten and grades 1 to 12, inclusive, victims
23 of crime, and mental health and substance abuse
24 treatment and diversion programs for people in the
25 criminal justice system. These funds shall not be

1 used to supplant existing State or local funds uti-
2 lized for these purposes.

3 (5) PROHIBITION.—Agencies shall not be obli-
4 gated to provide programs or levels of service de-
5 scribed in this chapter above the level for which
6 funding has been provided.

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