

116TH CONGRESS
1ST SESSION

H. R. 3795

To enable incarcerated persons to petition a Federal court for a second look at sentences longer than 10 years, where the person is not a danger to the safety of any person or the community, and has shown they are ready for reentry, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2019

Ms. BASS introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To enable incarcerated persons to petition a Federal court for a second look at sentences longer than 10 years, where the person is not a danger to the safety of any person or the community, and has shown they are ready for reentry, 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 “Second Look Act of
5 2019”.

1 **SEC. 2. MODIFICATION OF CERTAIN TERMS OF IMPRISON-**
2 **MENT.**

3 (a) IN GENERAL.—Subchapter C of chapter 229 of
4 title 18, United States Code, is amended by inserting after
5 section 3626 the following:

6 **“SEC. 3627. MODIFICATION OF CERTAIN TERMS OF IMPRIS-**
7 **ONMENT.**

8 “(a) IN GENERAL.—Notwithstanding any other pro-
9 vision of law, a court may reduce a term of imprisonment
10 imposed upon a defendant if—

11 “(1) the imposed term of imprisonment was
12 more than 10 years;

13 “(2) the defendant has served not less than 10
14 years in custody for the offense; and

15 “(3) the court finds, after considering the fac-
16 tors set forth in subsection (c), that—

17 “(A) the defendant—

18 “(i) is not a danger to the safety of
19 any person or the community; and

20 “(ii) demonstrates readiness for re-
21 entry; and

22 “(B) the interests of justice warrant a sen-
23 tence modification.

24 “(b) SUPERVISED RELEASE.—

1 “(1) IN GENERAL.—Any defendant whose sen-
2 tence is reduced pursuant to subsection (a), shall be
3 ordered to serve—

4 “(A) the term of supervised release in-
5 cluded as part of the original sentence imposed
6 on the defendant; or

7 “(B) in the case of a defendant whose
8 original sentence did not include a term of su-
9 pervised release, a term of supervised release
10 not to exceed the authorized terms of super-
11 vised release described in section 3583.

12 “(2) CONDITIONS OF SUPERVISED RELEASE.—
13 The conditions of supervised release and any modi-
14 fication or revocation of the term of supervised re-
15 lease shall be in accordance with section 3583.

16 “(c) FACTORS AND INFORMATION TO BE CONSID-
17 ERED IN DETERMINING WHETHER TO MODIFY A TERM
18 OF IMPRISONMENT.—

19 “(1) IN GENERAL.—The court, in determining
20 whether to reduce a term of imprisonment pursuant
21 to subsection (a)—

22 “(A) may consider the factors described in
23 section 3553(a), including the nature of the of-
24 fense and the history and characteristics of the
25 defendant; and

1 “(B) shall consider—

2 “(i) the age of the defendant at the
3 time of the offense;

4 “(ii) the age of the defendant at the
5 time of the sentence modification petition
6 and relevant data regarding the decline in
7 criminality as the age of defendants in-
8 crease;

9 “(iii) any presentation of argument
10 and evidence by counsel for the defendant;

11 “(iv) a report and recommendation of
12 the Bureau of Prisons, including informa-
13 tion on whether the defendant has substan-
14 tially complied with the rules of each insti-
15 tution in which the defendant has been
16 confined and whether the defendant has
17 completed any educational, vocational, or
18 other prison program, where available;

19 “(v) any report and recommendation
20 of the United States attorney for any dis-
21 trict in which an offense for which the de-
22 fendant is imprisoned was prosecuted;

23 “(vi) whether the defendant has dem-
24 onstrated maturity, rehabilitation, and a

1 fitness to reenter society sufficient to jus-
2 tify a sentence reduction;

3 “(vii) any statement, which may be
4 presented orally or otherwise, by any vic-
5 tim of an offense for which the defendant
6 is imprisoned or by a family member of the
7 victim if the victim is deceased;

8 “(viii) any report from a physical,
9 mental, or psychiatric examination of the
10 defendant conducted by a licensed health
11 care professional;

12 “(ix) the family and community cir-
13 cumstances of the defendant, including any
14 history of abuse, trauma, or involvement in
15 the child welfare system, and the potential
16 benefits to children and family members of
17 reunification with the defendant;

18 “(x) the role of the defendant in the
19 offense and whether, and to what extent,
20 an adult was involved in the offense if the
21 defendant was a juvenile at the time of the
22 offense;

23 “(xi) the diminished culpability of ju-
24 veniles as compared to that of adults, and
25 the hallmark features of youth, including

1 immaturity, impetuosity, and failure to ap-
2 preciate risks and consequences, if the de-
3 fendant was a juvenile at the time of the
4 offense; and

5 “(xii) any other information the court
6 determines relevant to the decision of the
7 court.

8 “(2) REBUTTABLE PRESUMPTION.—In the case
9 of a defendant who is 50 years of age or older on
10 the date on which the defendant files an application
11 for a sentence reduction under subsection (a), there
12 shall be a rebuttable presumption that the sentence
13 of the defendant shall be reduced.

14 “(d) LIMITATION ON APPLICATIONS PURSUANT TO
15 THIS SECTION.—

16 “(1) SECOND APPLICATION.—Not earlier than
17 5 years after the date on which an order denying re-
18 lease on an initial application under this section be-
19 comes final, a court shall entertain a second applica-
20 tion by the same defendant under this section.

21 “(2) THIRD APPLICATION.—Not earlier than 2
22 years after the date on which an order entered by
23 a court on a second application under paragraph (1)
24 becomes final, a court shall entertain a third appli-
25 cation by the same defendant under this section.

1 “(3) FINAL APPLICATION.—A court shall enter-
2 tain a final application if the defendant—

3 “(A) is 50 years of age or older; and

4 “(B) has exhausted the sentencing modi-
5 fication process.

6 “(e) PROCEDURES.—

7 “(1) NOTICE.—Not later than 30 days after the
8 date on which the 10th year of imprisonment begins
9 for a defendant sentenced to more than 10 years of
10 imprisonment for an offense, the Bureau of Prisons
11 shall provide written notice of this section to—

12 “(A) the defendant; and

13 “(B) the sentencing court, the United
14 States attorney, and the Federal Public De-
15 fender or Executive Director of the Community
16 Defender Organization for the judicial district
17 in which the sentence described in this para-
18 graph was imposed.

19 “(2) APPLICATION.—

20 “(A) IN GENERAL.—An application for a
21 sentence reduction under this section shall be
22 filed in the judicial district in which the sen-
23 tence was imposed as a motion to reduce the
24 sentence of the defendant pursuant to this sec-

tion and may include affidavits or other written material.

“(B) REQUIREMENT.—A motion to reduce a sentence under this section shall be filed with the sentencing court and a copy shall be served on the United States attorney for the judicial district in which the sentence was imposed.

“(3) EXPANDING THE RECORD; HEARING.—

“(A) EXPANDING THE RECORD.—After the filing of a motion to reduce a sentence under this section, the court may direct the parties to expand the record by submitting additional written materials relating to the motion.

“(B) HEARING.—

“(i) IN GENERAL.—The court shall, upon request of the defendant or the Government, conduct a hearing on the motion, at which the defendant and counsel for the defendant shall be given the opportunity to be heard.

“(ii) EVIDENCE.—In a hearing under this section, the court shall allow parties to present evidence.

“(iii) DEFENDANT’S PRESENCE.—At a hearing under this section, the defendant

1 shall be present unless the defendant
2 waives the right to be present. The re-
3 quirement under this clause may be satis-
4 fied by the defendant appearing by video
5 teleconference.

6 “(iv) COUNSEL.—A defendant who is
7 unable to afford counsel is entitled to have
8 counsel appointed, at no cost to the de-
9 fendant, to represent the defendant for the
10 application and proceedings under this sec-
11 tion, including any appeal, unless the de-
12 fendant expressly waives the right to coun-
13 sel after being fully advised of their rights
14 by the court.

15 “(v) FINDINGS.—The court shall state
16 in open court, and file in writing, the rea-
17 sons for granting or denying a motion
18 under this section.

19 “(C) APPEAL.—The Government or the
20 defendant may file a notice of appeal in the dis-
21 trict court for review of a final order under this
22 section. The time limit for filing such appeal
23 shall be governed by rule 4(a) of the Federal
24 Rules of Appellate Procedure.

1 “(4) CRIME VICTIMS RIGHTS.—Upon receiving
2 an application under paragraph (2), the United
3 States attorney shall provide any notifications re-
4 quired under section 3771.

5 “(f) ANNUAL REPORT.—

6 “(1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of the Second Look Act of
8 2019, and once every year thereafter, the United
9 States Sentencing Commission shall submit to the
10 Committee on the Judiciary of the Senate and the
11 Committee on the Judiciary of the House of Rep-
12 resentatives a report on requests for sentence reduc-
13 tions under this section.

14 “(2) CONTENTS.—Each report required to be
15 published under paragraph (1) shall include, for the
16 1-year period preceding the report—

17 “(A) the number of incarcerated individ-
18 uals granted and denied sentence reductions
19 under this section;

20 “(B) the number of incarcerated individ-
21 uals released from prison under this section;

22 “(C) the demographic characteristics, in-
23 cluding race and gender, of—

1 “(i) the incarcerated individuals who
2 applied for a sentence reduction under this
3 section;

4 “(ii) the incarcerated individuals
5 granted sentence reductions under this sec-
6 tion; and

7 “(iii) the incarcerated individuals who
8 were released from prison under this sec-
9 tion;

10 “(D) the location, categorized by Federal
11 circuit and State, of—

12 “(i) the incarcerated individuals who
13 applied for sentence reductions under this
14 section;

15 “(ii) the incarcerated individuals
16 granted sentence reductions under this sec-
17 tion; and

18 “(iii) the incarcerated individuals who
19 were released from prison under this sec-
20 tion;

21 “(E) the average sentence reduction grant-
22 ed under this section;

23 “(F) the number of incarcerated individ-
24 uals 50 years of age or older who applied for
25 sentence reductions under this section;

1 “(G) the number of incarcerated individ-
 2 uals 50 years of age or older who were granted
 3 sentence reductions under this section; and

4 “(H) the number of individuals incarcer-
 5 ated 50 years of age or older who were released
 6 from prison under this section.

7 “(3) ATTORNEY GENERAL COOPERATION.—The
 8 Attorney General shall assist and provide informa-
 9 tion to the United States Sentencing Commission in
 10 the performance of the Commission’s duties under
 11 this subsection and promptly respond to requests
 12 from the Commission.”.

13 (b) TABLE OF SECTIONS.—The table of sections for
 14 subchapter C of chapter 229 of title 18, United States
 15 Code, is amended by inserting after the item relating to
 16 section 3626 the following:

“3627. Modification of certain terms of imprisonment.”.

17 (c) TECHNICAL AND CONFORMING AMENDMENT.—
 18 Section 3582(c) of title 18, United States Code, is amend-
 19 ed—

20 (1) in paragraph (1)(B), by striking “and” at
 21 the end;

22 (2) in paragraph (2), by striking the period at
 23 the end and inserting “; and”; and

24 (3) by adding at the end the following:

1 “(3) the court may reduce a term of imprison-
2 ment in accordance with section 3627.”.

3 (d) APPLICABILITY.—The amendments made by this
4 section shall apply to any conviction entered before, on,
5 or after the date of enactment of this Act.

