



HOUSE JUDICIARY COMMITTEE - 114th Congress

Section-by-Section: The Sentencing Reform Act of 2015

Section 2. Reforms Mandatory Minimum Sentences for Drug Offenses, and Establishes a Sentencing Enhancement for Fentanyl. This section reduces the mandatory minimum penalty for a third serious drug offense from life imprisonment to 25 years, and also reduces the 20-year mandatory minimum for a second serious drug offense to 15 years. It also limits the previous drug offenses that trigger these mandatory minimums to drug trafficking offenses in the Controlled Substances Act (CSA) and the Controlled Substances Import-Export Act (CSIEA), as well as state offenses carrying a maximum penalty of ten years. It adds “serious violent felonies” to the list of previous offenses that trigger these penalties under the CSA and the CSIEA. The reduced sentences in this section are applied retroactively in general, but cannot be applied retroactively if the offender has a prior conviction for a “serious violent felony” that resulted in a sentence of greater than 13 months in prison. This section also contains a sentencing enhancement for trafficking in heroin “cut” with fentanyl, or trafficking in fentanyl disguised as heroin.

Section 3. Broadens the Existing Safety Valve Applicable to the 5-Year Mandatory Minimum. This section expands the applicability of the existing drug “safety valve” to certain offenders with prior misdemeanor convictions, but excludes many offenders with serious prior convictions, including prior 3-point felony or 2-point drug trafficking convictions. It also adopts an existing mechanism under the Sentencing Guidelines to permit courts to find that a defendant’s prior offenses substantially overstate the defendant’s criminal history and danger of recidivism; this provision is subject to appellate review, like other sentencing determinations, and offenders with prior serious drug or violent convictions are ineligible for relief. This section is not retroactive.

Section 4. Creates a Safety Valve for the 10-Year Mandatory Minimum. This section creates a second safety valve that allows judges to sentence certain offenders below the 10-year mandatory minimum. However, offenders who are not eligible under this provision include: (1) offenders who performed an enhanced role in the offense or (2) otherwise served as an importer, exporter, high-level distributor or supplier, wholesaler, or manufacturer. The offender also must not have used violence or a firearm or have been a member of a continuing criminal enterprise, and the offense must not have resulted in death or serious bodily injury. The defendant must also cooperate with the government and provide any and all information and evidence the defendant has about the offense. This provision excludes offenders with prior serious drug or serious violent convictions or offenders who distributed drugs to or with a person under the age of 18. This section is not retroactive.

Section 5. Clarifies Congressional Intent and Reduces the Enhanced Mandatory Minimum Sentence in Current Law for Certain Firearms Offenses, but Expands its Application to Similar Prior State Convictions. This section clarifies that the enhanced mandatory minimum sentence in current law for using a firearm during a crime of violence or drug crime (18 U.S.C. § 924(c)) is limited to recidivist offenders who have previously been convicted and served a sentence for such an offense. This change is applied retroactively. This section also reduces the current enhanced mandatory minimum from 25 years to 15 years. This reduction is also applied retroactively, but cannot be applied retroactively if the offender has a prior conviction for a

serious violent felony. This section also expands the applicable predicate offenses that trigger the enhanced sentence to include similar prior state-level convictions in which the offender carried, brandished, or used a firearm.

Section 6. Raises the Statutory Maximum for Unlawful Possession of a Firearm and Creates an Overlapping Range by Reducing the Enhanced Mandatory Minimum for Armed Career Criminals. This section increases the statutory maximum for the unlawful possession of a firearm by a convicted felon and certain other offenders from 10 to 15 years. It also reduces the enhanced mandatory minimum for armed career criminals from 15 to 10 years. This reduction cannot be applied retroactively if the offender has a prior conviction for a serious violent felony.

Section 7. Retroactive Application of the Fair Sentencing Act (FSA). This section provides for retroactive application of the Fair Sentencing Act of 2010 to certain offenders sentenced under the CSA and CSIEA for trafficking in crack cocaine. This section extends retroactivity to offenders who (1) did not receive a sentence reduction under the 2011 Sentencing Commission amendments following enactment of the FSA because they were sentenced at the mandatory minimum and therefore were previously ineligible and (2) did receive a previous reduction, but only received a reduction to the mandatory minimum. It does not provide retroactivity to offenders whose original sentence has previously been reduced to a sentence greater than the applicable mandatory minimum, or to offenders whose motions for sentence reduction were denied because the offender posed a danger to any person or the community or committed prison misconduct.

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