

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. GARRETT, 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. LOEBSACK, 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

DECEMBER 23, 2016

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

DECEMBER 23, 2016

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on October 8, 2015]

A BILL

To reform sentencing laws, 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 “Sentencing Reform Act*
5 *of 2015”.*

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

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

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

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

17 *“(58) The term ‘serious violent felony’ means an of-*
18 *fense—*

19 *“(A) described in section 3559(c)(2)(F) of title*
20 *18, United States Code, for which the offender served*
21 *a term of imprisonment of more than 12 months; or*

22 *“(B) that would be a felony violation of section*
23 *113 of title 18, United States Code, if the offense were*
24 *committed in the special maritime and territorial ju-*
25 *risdiction of the United States, for which the offender*

1 *served a term of imprisonment of more than 12*
2 *months.”;*

3 *(2) in section 401(b)(1) (21 U.S.C. 841(b)(1))—*

4 *(A) in subparagraph (A), in the flush text*
5 *following clause (viii)—*

6 *(i) by striking “If any person commits*
7 *such a violation after a prior conviction for*
8 *a felony drug offense has become final, such*
9 *person shall be sentenced to a term of im-*
10 *prisonment which may not be less than 20*
11 *years” and inserting the following: “If any*
12 *person commits such a violation after a*
13 *prior conviction for a serious drug felony or*
14 *serious violent felony has become final, such*
15 *person shall be sentenced to a term of im-*
16 *prisonment of not less than 15 years”;* and

17 *(ii) by striking “after two or more*
18 *prior convictions for a felony drug offense*
19 *have become final, such person shall be sen-*
20 *tenced to a mandatory term of life impris-*
21 *onment without release” and inserting the*
22 *following: “after 2 or more prior convictions*
23 *for a serious drug felony or serious violent*
24 *felony have become final, such person shall*

1 *be sentenced to a term of imprisonment of*
2 *not less than 25 years”; and*

3 *(B) in subparagraph (B), in the flush text*
4 *following clause (viii), by striking “If any per-*
5 *son commits such a violation after a prior con-*
6 *viction for a felony drug offense has become*
7 *final” and inserting the following: “If any per-*
8 *son commits such a violation after a prior con-*
9 *viction for a serious drug felony or serious vio-*
10 *lent felony has become final”; and*

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

13 *“(8) In the case of a violation of subsection (a), if the*
14 *mixture or substance containing a detectable amount of her-*
15 *oin also contains a detectable amount of N-phenyl-N-[1-*
16 *(2-phenylethyl) -4-piperidinyl] propanamide or any ana-*
17 *logue of N-phenyl-N-[1-(2-phenylethyl) -4-piperidinyl]*
18 *propanamide, then a court shall, in addition to the term*
19 *of punishment for the violation of this section, impose a*
20 *term of imprisonment not to exceed 5 years, which shall*
21 *not run concurrently with any term of imprisonment im-*
22 *posed on the person under any other provision of law.*

23 *“(9) In the case of a violation of subsection (a), if the*
24 *mixture or substance containing a detectable amount of N-*
25 *phenyl-N-[1-(2-phenylethyl) -4-piperidinyl] propanamide*

1 *or any analogue of N-phenyl-N-[1-(2-phenylethyl) -4-*
 2 *piperidinyl] propanamide was represented to be or sold as*
 3 *heroin, then a court shall , in addition to the term of pun-*
 4 *ishment for the violation of this section, impose a term of*
 5 *imprisonment not to exceed 5 years, which shall not run*
 6 *concurrently with any term of imprisonment imposed on*
 7 *the person under any other provision of law.”.*

8 (b) *CONTROLLED SUBSTANCES IMPORT AND EXPORT*
 9 *ACT AMENDMENTS.*—Section 1010(b) of the Controlled Sub-
 10 *stances Import and Export Act (21 U.S.C. 960(b)) is*
 11 *amended—*

12 (1) *in paragraph (1), in the flush text following*
 13 *subparagraph (H), by striking “If any person com-*
 14 *mits such a violation after a prior conviction for a*
 15 *felony drug offense has become final, such person shall*
 16 *be sentenced to a term of imprisonment of not less*
 17 *than 20 years” and inserting “If any person commits*
 18 *such a violation after a prior conviction for a serious*
 19 *drug felony or serious violent felony has become final,*
 20 *such person shall be sentenced to a term of imprison-*
 21 *ment of not less than 15 years”;*

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

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

2 “(8) In the case of a violation of subsection (a), if the
3 mixture or substance containing a detectable amount of her-
4 oin also contains a detectable amount of N-phenyl-N-[1-
5 (2-phenylethyl) -4-piperidinyl] propanamide or any ana-
6 logue of N-phenyl-N-[1-(2-phenylethyl) -4-piperidinyl]
7 propanamide, then a court shall—

8 “(A) not impose a term of probation;

9 “(B) in addition to the term of punishment for
10 the violation of this section, impose a term of impris-
11 onment not to exceed 5 years; and

12 “(C) no term of imprisonment imposed on a per-
13 son under subparagraph (B) shall run concurrently
14 with any term of imprisonment imposed on the per-
15 son under any other provision of law.

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

22 “(A) not impose a term of probation;

23 “(B) in addition to the term of punishment for
24 the violation of this section, impose a term of impris-
25 onment 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

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

4 (2) by adding at the end the following:

5 “(g) *INADEQUACY OF CRIMINAL HISTORY.*—

6 “(1) *IN GENERAL.*—If subsection (f) does not
7 apply to a defendant because the defendant does not
8 meet the requirements described in subsection (f)(1)
9 (relating to criminal history), the court may, upon
10 prior notice to the Government, waive subsection
11 (f)(1) if the court specifies in writing the specific rea-
12 sons why reliable information indicates that exclud-
13 ing the defendant pursuant to subsection (f)(1) sub-
14 stantially overrepresents the seriousness of the defend-
15 ant’s criminal history or the likelihood that the de-
16 fendant will commit other crimes.

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

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

24 “(1) the term ‘drug trafficking offense’ means an
25 offense that is punishable by imprisonment under any

1 *law of the United States, or of a State or foreign*
2 *country, that prohibits or restricts the importation,*
3 *manufacture, or distribution of controlled substances*
4 *or the possession of controlled substances with intent*
5 *to distribute; and*

6 “(2) the term ‘violent offense’ means a ‘crime of
7 *violence*’, as defined in section 16, that is punishable
8 *by imprisonment.*”.

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

12 **SEC. 4. LIMITATION ON APPLICATION OF THE 10-YEAR MAN-**
13 **DATORY MINIMUM.**

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

17 “(i) *LIMITATION ON APPLICABILITY OF CERTAIN*
18 *STATUTORY MINIMUMS.*—*Notwithstanding any other provi-*
19 *sion of law, in the case of a conviction under section 401*
20 *or 406 of the Controlled Substances Act (21 U.S.C. 841 and*
21 *846) or section 1010 or 1013 of the Controlled Substances*
22 *Import and Export Act (21 U.S.C. 960 and 963) for which*
23 *the statutory minimum term of imprisonment is 10 years,*
24 *the court may impose a sentence as if the statutory min-*
25 *imum term of imprisonment was 5 years, if the court finds*

1 *at sentencing, after the Government has been afforded the*
2 *opportunity to make a recommendation, that—*

3 “(1) *the defendant does not have a prior conviction*
4 *for a serious drug felony or serious violent felony*
5 *as defined in paragraphs (57) and (58), respectively,*
6 *of section 102 of the Controlled Substances Act (21*
7 *U.S.C. 802) that was made final prior to the commis-*
8 *sion of the instant offense;*

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

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

23 “(4) *the defendant did not act as an importer,*
24 *exporter, high-level distributor or supplier, wholesaler,*
25 *or manufacturer of the controlled substances involved*

1 *in the offense or engage in a continuing criminal en-*
2 *terprise, as defined in section 408 of the Controlled*
3 *Substances Act (21 U.S.C. 848);*

4 “(5) *the defendant did not distribute a controlled*
5 *substance to or with a person under 18 years of age;*
6 *and*

7 “(6) *not later than the time of the sentencing*
8 *hearing, the defendant has truthfully provided to the*
9 *Government all information and evidence the defend-*
10 *ant has concerning the offense or offenses that were*
11 *part of the same course of conduct or of a common*
12 *scheme or plan, but the fact that the defendant has no*
13 *relevant or useful other information to provide or that*
14 *the Government is already aware of the information*
15 *shall not preclude a determination by the court that*
16 *the defendant has complied with this requirement.*

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

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

21 “(A) *means a defendant who imported, ex-*
22 *ported, or otherwise distributed or supplied large*
23 *quantities of a controlled substance to other drug*
24 *distributors; and*

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

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

18 (1) in the matter preceding clause (i), by strik-
19 ing “second or subsequent conviction under this sub-
20 section” and inserting “violation of this subsection
21 that occurs after a prior conviction under this sub-
22 section or under State law for a crime of violence that
23 contains as an element of the offense the carrying,
24 brandishing, or use of a firearm has become final”;
25 and

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

3 (b) *APPLICABILITY TO PENDING AND PAST CASES.—*

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

9 (2) *CERTAIN PAST CASES.—*

10 (A) *GENERAL RULE.—Except as provided*
11 *in subparagraph (B), in the case of a defendant*
12 *who, before the date of enactment of this Act, was*
13 *convicted of an offense for which the penalty is*
14 *amended by this section and was sentenced to a*
15 *term of imprisonment for the offense, the sen-*
16 *tencing court may, on motion of the defendant or*
17 *the Director of the Bureau of Prisons, or on its*
18 *own motion, upon prior notice to the Govern-*
19 *ment, reduce the term of imprisonment for the*
20 *offense, after considering the factors set forth in*
21 *section 3553(a) of title 18, United States Code,*
22 *the nature and seriousness of the danger to any*
23 *person or the community, and the post-sen-*
24 *tencing conduct of the defendant, if such a reduc-*

1 tion is consistent with this section and the
2 amendments made by this section.

3 (B) *EXCEPTION.*—Subparagraph (A) does
4 not apply in the case of an offense affected by the
5 amendment made in subsection (a)(2) with re-
6 gard to a defendant who has a prior conviction
7 for a serious violent felony, as defined in section
8 102(58) of the Controlled Substances Act.

9 **SEC. 6. AMENDMENT TO CERTAIN PENALTIES FOR CERTAIN**
10 **FIREARM OFFENSES AND ARMED CAREER**
11 **CRIMINAL PROVISION.**

12 (a) *AMENDMENTS.*—Section 924 of title 18, United
13 States Code, is amended—

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

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

20 (b) *APPLICABILITY TO PENDING AND PAST CASES.*—

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

1 (2) *PAST CASES.*—*In the case of a defendant*
2 *(other than a defendant with a prior conviction for*
3 *a serious violent felony, as defined in section 102(58)*
4 *of the Controlled Substances Act) who, before the date*
5 *of enactment of this Act, was convicted of an offense*
6 *for which the penalty is amended by this section and*
7 *was sentenced to a term of imprisonment for the of-*
8 *fense, the sentencing court may, on motion of the de-*
9 *fendant or the Director of the Bureau of Prisons, or*
10 *on its own motion, upon prior notice to the Govern-*
11 *ment, reduce the term of imprisonment for the offense,*
12 *after considering the factors set forth in section*
13 *3553(a) of title 18, United States Code, the nature*
14 *and seriousness of the danger to any person or the*
15 *community, and the post-sentencing conduct of the de-*
16 *fendant, if such a reduction is consistent with this*
17 *section and the amendments made by this section.*

18 **SEC. 7. APPLICATION OF FAIR SENTENCING ACT.**

19 (a) *DEFINITION OF COVERED OFFENSE.*—*In this sec-*
20 *tion, the term “covered offense” means a violation of a Fed-*
21 *eral criminal statute, the statutory penalties for which were*
22 *modified by section 2 or 3 of the Fair Sentencing Act of*
23 *2010 (Public Law 111–220; 124 Stat. 2372), that was com-*
24 *mitted before August 3, 2010.*

1 (b) *DEFENDANTS PREVIOUSLY SENTENCED.*—A court
2 that imposed a sentence for a covered offense, may, on mo-
3 tion of the defendant, the Director of the Bureau of Prisons,
4 the attorney for the Government, or the court, impose a re-
5 duced sentence as if sections 2 and 3 of the Fair Sentencing
6 Act of 2010 (Public Law 111–220; 124 Stat. 2372) were
7 in effect at the time the covered offense was committed.

8 (c) *LIMITATIONS.*—No court shall entertain a motion
9 made under this section to reduce a sentence if the sentence
10 was imposed or reduced to a sentence greater than the ap-
11 plicable mandatory minimum in accordance with the
12 amendments made by sections 2 and 3 of the Fair Sen-
13 tencing Act of 2010 (Public Law 111–220; 124 Stat. 2372),
14 or if a motion made pursuant to section 2 or 3 of the Fair
15 Sentencing Act or under this section was denied by a court
16 because a reduction in the defendant’s term of imprison-
17 ment would pose a danger to any person or the community
18 or was denied by a court because of the defendant’s post-
19 sentencing conduct. Nothing in this section shall require a
20 court to reduce any sentence pursuant to this section.

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

23 (a) *REPORT.*—Not later than 1 year after the date of
24 enactment of this Act, the Attorney General, in consultation
25 with the United States Sentencing Commission, shall sub-

1 *mit to the Committee on the Judiciary of the Senate and*
2 *the Committee on the Judiciary of the House of Representa-*
3 *tives a report on mandatory minimum sentencing provi-*
4 *sions under Federal law.*

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

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

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

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

16 (4) *an assessment of the compatibility of manda-*
17 *tory minimum sentencing provisions under Federal*
18 *law and the sentencing guidelines system established*
19 *under the Sentencing Reform Act of 1984 (Public*
20 *Law 98-473; 98 Stat. 1987) and the sentencing guide-*
21 *lines system in place after Booker v. United States,*
22 *543 U.S. 220 (2005);*

23 (5) *a description of the interaction between man-*
24 *datory minimum sentencing provisions under Federal*
25 *law and plea agreements; and*

1 (6) any other information that the Attorney Gen-
2 eral, in consultation with the United States Sen-
3 tencing Commission, determines would contribute to a
4 thorough assessment of mandatory minimum sen-
5 tencing provisions under Federal law.

6 **SEC. 9. SENSE OF CONGRESS.**

7 *It is the sense of Congress that reform of the criminal*
8 *justice system, in order to make it more effective, safe, hu-*
9 *mane, fiscally sustainable, and fair to victims, law enforce-*
10 *ment, offenders, and the general public, requires the integra-*
11 *tion of a mental health component as part of a comprehen-*
12 *sive reform strategy. This reform strategy should strive to*
13 *identify those most in need of mental health services and*
14 *employ best practices to provide emergency and crisis serv-*
15 *ices, specialized law enforcement response training, court*
16 *hearings for alternative dispositions, and appropriate com-*
17 *munity supervision support services.*

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114TH CONGRESS
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H. R. 3713

[Report No. 114-888, Part I]

A BILL

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