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# CONGRESSIONAL AWARD PROGRAM REAUTHORIZATION ACT OF 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 317, S. 2865.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2865) to reauthorize the Congressional Award Act (2 U.S.C. 801 et seq.), and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I further ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2865) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2865

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Award Program Reauthorization Act of 2009".

## SEC. 2. CONGRESSIONAL AWARD PROGRAM.

(a) IMPLEMENTATION AND PRESENTATION.—Section 102 of the Congressional Award Act (2 U.S.C. 802) is amended—

(1) in the matter following subsection (b)(5), by striking "under paragraph (3)"; and

(2) in subsection (c), in the second sentence, by striking "during" and inserting "in connection with".

(b) TERMS OF APPOINTMENT AND REAPPOINTMENTS.—Section 103 of the Congressional Award Act (2 U.S.C. 803) is amended by striking subsection (b) and inserting the following:

"(b) TERMS OF APPOINTED MEMBERS; REAPPOINTMENT.—

"(1) Appointed members of the Board shall continue to serve at the pleasure of the officer by whom they are appointed, and (unless reappointed under paragraph (2)) shall serve for a term of 4 years.

"(2)(A) Subject to the limitations in subparagraph (B), members of the Board may be reappointed, except that no member may serve more than 2 full consecutive terms. Members may be reappointed to 2 full consecutive terms after being appointed to fill a vacancy on the Board.

"(B) Members of the Board shall not be subject to the limitation on reappointment in subparagraph (A) during their period of service as Chairman of the Board and may be reappointed to an additional full term after termination of such Chairmanship.

"(3)(A) Notwithstanding paragraph (1) or (2), the term of each member of the Board shall begin on October 1 of the even numbered year which would otherwise apply with one-half of the Board positions having terms which begin in each even numbered year.

"(B) Subparagraph (A) shall apply to appointments made to the Board on or after the date of enactment of the Congressional Award Program Reauthorization Act of 2009."

(c) REQUIREMENTS REGARDING FINANCIAL OPERATIONS.—Section 104(c) of the Congressional Award Act (2 U.S.C. 804(c)) is amended—

(1) in paragraph (1), in the third sentence, by striking "in any calendar year," and inserting "in any fiscal year"; and

(2) by striking paragraph (2) and inserting the following

"(2)(A) The Comptroller General of the United States shall determine for each fiscal year whether the Director has substantially complied with paragraph (1). The findings made by the Comptroller General under the preceding sentence shall be included in the reports submitted under section 107(b).

"(B) If the Director fails to substantially comply with paragraph (1), the Board shall instruct the Director to take such actions as may be necessary to correct such deficiencies, and shall remove and replace the Director if such deficiencies are not promptly corrected."

(d) FUNDING AND EXPENDITURES.—Section 106(a) of the Congressional Award Act (2 U.S.C. 806(a)) is amended by striking paragraph (1) and inserting the following:

"(1) the Board shall carry out its functions and make expenditures with—

"(A) such resources as are available to the Board from sources other than the Federal Government; and

"(B) funds awarded in any grant program administered by a Federal agency in accordance with the law establishing that grant program."

(e) STATEWIDE CONGRESSIONAL AWARD COUNCILS.—Section 106(c) of the Congressional Award Act (2 U.S.C. 806(c)) is amended by striking paragraph (4) and inserting the following:

"(4) Each Statewide Council established under this section may receive contributions, and use such contributions for the purposes of the Program. The Board shall adopt appropriate financial management methods in order to ensure the proper accounting of these funds. Each Statewide Council shall comply with subsections (a), (d), (e), and (h) governing the Board."

(f) CONTRACTING AND USE OF FUNDS FOR SCHOLARSHIPS.—Section 106 of the Congressional Award Act (2 U.S.C. 806) is amended—

(1) in subsection (d), by inserting "to be" after "expenditure is"; and

(2) in subsection (e)(1)(A), by inserting "or for scholarships" after "local program".

(g) NONPROFIT CORPORATION.—Section 106 of the Congressional Award Act (2 U.S.C. 806) is amended by striking subsection (i) and inserting the following:

"(i)(1) The Board shall provide for the incorporation of a nonprofit corporation to be known as the Congressional Award Foundation (together with any subsidiary nonprofit corporations determined desirable by the Board, collectively referred to in this title as the 'Corporation') for the sole purpose of assisting the Board to carry out the Congressional Award Program, and shall delegate to the Corporation such duties as it considers appropriate, including the employment of personnel, expenditure of funds, and the incurrence of financial or other contractual obligations.

"(2) The articles of incorporation of the Congressional Award Foundation shall provide that—

"(A) the members of the Board of Directors of the Foundation shall be the members of the Board, with up to 24 additional voting members appointed by the Board, and the Director who shall serve as a nonvoting member; and

"(B) the extent of the authority of the Foundation shall be the same as that of the Board.

"(3) No director, officer, or employee of any corporation established under this subsection may receive compensation, travel expenses, or benefits from both the Corporation and the Board."

(h) TERMINATION.—

(1) IN GENERAL.—Section 108 of the Congressional Award Act (2 U.S.C. 808) is amended by striking "October 1, 2009" and inserting "October 1, 2013".

(2) EFFECTIVE DATE.—This subsection shall take effect as of October 1, 2009.

## FAIR SENTENCING ACT OF 2009

Mr. DURBIN. Mr. President, prior to making the next unanimous consent request, I wish to make a statement on the RECORD relative to the bill that I will be asking for unanimous consent on. It is S. 1789.

This bill is known as the Fair Sentencing Act. It is bipartisan legislation which has cleared both sides. At the conclusion of my remarks, I will, of course, ask for unanimous consent, but will ask permission, if possible, that the statement of Senator SESSIONS be printed in the RECORD. I don't know if he will be able to make it this evening, but if not, we will do our best to accommodate him.

The Fair Sentencing Act would reduce the sentencing disparity between crack and powder cocaine and increase penalties for serious drug offenders. Crack and powder cocaine have a devastating effect on families in America, and tough anti-cocaine legislation is definitely needed, but the law must also be fair. Current law is based on an unjustified distinction between crack and powder cocaine. Simply possessing five grams of crack—the equivalent of five tiny packets of sugar that you find in restaurants—carries the same sentence as selling 500 grams of powder cocaine. That is 500 packets of sugar. Five packets for crack; 500 packets for powder, the same sentence. This is known as the 100-to-1 disparity.

I can remember as a Member of the House of Representatives when we enacted this legislation. Crack cocaine had just appeared on the scene and it scared us, because it was cheap and it was addictive. We thought it was more dangerous than many narcotics and left the legacy of crack babies and broken lives. In our response to this terrible new narcotic at the time, we enacted this sentencing disparity, saying that 5 five grams of crack cocaine would lead to the same sentence as 500 grams of powder cocaine. What it has meant is that, unfortunately, in the years that followed, we have seen people sent to prison for extended periods of time for possessing—merely possessing—the smallest amount of crack.

Disproportionately, African Americans who are addicted use crack cocaine. The use of powder cocaine is spread across the population among Whites, Hispanics, and others. So the net result of this was that the heavy

sentencing we enacted years ago took its toll primarily in the African-American community. It resulted in the incarceration of thousands of people because of this heavy sentencing disparity and a belief in the African-American community that it was fundamentally unfair. It was the same cocaine, though in a different form, and they were being singled out for much more severe and heavy sentences. This debate went on and on and on. African Americans make up about 30 percent of crack users in America, but they make up more than 80 percent of those who have been convicted of Federal crack offenses.

Law enforcement experts say that the crack-powder disparity undermines trust in the criminal justice system, especially in the African-American community. In a hearing I held last year, Asa Hutchinson, a former Member of Congress who was also head of the Drug Enforcement Administration during the Bush administration, testified and he said:

Under the current disparity, the credibility of our entire drug enforcement system is weakened.

The bipartisan U.S. Sentencing Commission and the Judicial Conference of the United States support reducing this disparity. According to the Sentencing Commission, this:

would better reduce the gap in sentencing between blacks and whites than any other single policy change, and it would dramatically improve the fairness of the Federal sentencing system.

That comes from the Sentencing Commission.

The Fair Sentencing Act, which I will call up for unanimous consent momentarily, would reduce the current 100-to-1 disparity to basically 18 to 1. The Fair Sentencing Act would also eliminate the 5-year mandatory minimum sentence for simple possession of crack cocaine.

Incidentally, this is the only mandatory minimum for simple possession of a drug by a first-time offender. For this one form of narcotics, persons who were found in simple possession of crack cocaine literally faced years in prison for that possession without any evidence that they were selling it or involved in any other way.

There is a bipartisan consensus that current cocaine sentencing laws are unjust. Now Democrats and Republicans have come together to address the issue in a bipartisan way. Last week, the Senate Judiciary Committee reported the Fair Sentencing Act by a unanimous 19-to-0 vote. The bill is cosponsored by 16 of the 19 members of the Senate Judiciary Committee. This is the first time the Senate Judiciary Committee has ever reported a bill to reduce the crack-powder disparity, and if this bill is enacted into law, it will be the first time since 1970—40 years ago—that Congress has repealed a mandatory minimum sentence.

Here is what Attorney General Eric Holder said last week in response:

The bill voted unanimously out of the Senate Judiciary Committee today makes progress toward achieving a more just sentencing policy while maintaining the necessary law enforcement tools to appropriately punish violent and dangerous drug traffickers. I look forward to the Senate and the House approving this legislation quickly so that it can be signed into law.

The Fair Sentencing Act is supported by law enforcement groups, including the National District Attorneys Association, representing 40,000 State and local prosecutors; the National Association of Police Organizations, representing 240,000 law enforcement officers; and the International Union of Police Associations, representing more than 100,000 law enforcement officials.

I wish to thank my colleagues on the Senate Judiciary Committee for supporting the Fair Sentencing Act. I especially wish to thank the following Members who have done an extraordinary job over the last year during which we have worked to reach this bipartisan agreement. First, the chairman of the Senate Judiciary Committee PAT LEAHY. He is a great leader and a patient man. This bill has been sitting on a calendar for weeks and he keeps coming to me and saying: DURBIN, when are we going to have this ready?

I said: Mr. Chairman, we are working on it.

He had the patience of Job.

I especially wish to thank my friend from Alabama, the Judiciary Committee ranking member, JEFF SESSIONS. If asked if there are two politicians on the floor of the Senate who are dramatically different, you couldn't find two any more different than DICK DURBIN and JEFF SESSIONS. We seldom agree on things, but we came together on this, and we made mutual concessions to come up with a good bipartisan bill. JEFF, I think, went the extra mile to find some agreement here. He held to his principles, but we worked it out.

In the process of reaching that agreement, I wish to also thank some Republican Members who were invaluable. LINDSEY GRAHAM was one of the first to come up to me and say, I want to work with you on this. There has to be a way we can work this out to the satisfaction of law enforcement and to reach the standards of justice. I thank Senator LINDSEY GRAHAM, the Republican from South Carolina, for all the work he put into it.

TOM COBURN of Oklahoma is another Senator I disagree with so many times politically. He went the extra mile on this. I know it meant a lot to him and he was very helpful.

Finally, ORRIN HATCH from Utah. Senator HATCH from the beginning said, Don't quit, stick with it, we can reach an agreement. He was an inspiration to us as we brought this to a conclusion.

We have talked about the need to address the crack-powder disparity for too long. Every day that passes without taking action to solve this problem

is another day that people are being sentenced under a law that virtually everyone agrees is unjust. I wish this bill went further. My initial bill established a 1-to-1 ratio, but this is a good bipartisan compromise. If this bill is enacted into law, it will immediately ensure that every year, thousands of people are treated more fairly in our criminal justice system. I hope my colleagues, when they hear about our efforts on this, will join in supporting our efforts to deal with this disparity.

I ask unanimous consent to have printed in the RECORD a statement by Wade Henderson, president of The Leadership Conference, in support of the bill that is currently being considered by the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Wade Henderson, president of The Leadership Conference on Civil and Human Rights, issued the following statement regarding the Senate Judiciary Committee's vote on March 11 to amend and pass The Fair Sentencing Act (S. 1789).

For nearly two decades, The Leadership Conference has fought for the complete elimination of the unjustified and racially discriminatory disparity in sentencing between the crack and powder forms of cocaine. This disparity subverts justice, undermines confidence in our criminal justice system, and wreaks havoc on the African-American community. We strongly supported Senator Dick Durbin's bill, S. 1789, which would have completely eliminated the disparity.

While we are disappointed that the goal of complete elimination has not yet been accomplished and that discrimination will remain, The Leadership Conference considers the Senate Judiciary Committee's unanimous passage of the amended version of S. 1789, which reduces the disparity from a ratio of 100-to-1 to 18-to-1, to be a step forward.

This legislation represents progress but not the end of the fight. As Dr. King said, An unjust law is a code that is out of harmony with the moral law. We are committed to redoubling our efforts to obtain complete elimination of this sentencing disparity—the only fair and just solution.

We applaud Senator Durbin for his persistence in seeking real reform, along with Chairman Patrick Leahy and Senator Jeff Sessions for their steadfast commitment to addressing this issue. We appreciate the contributions of Senator Lindsey Graham toward finding a resolution. We want to note Senator Ben Cardin's continued commitment to the complete elimination of the disparity and Senator Russ Feingold's courageous vote against the amendment. We also want to recognize the leadership of Representative Bobby Scott and the Congressional Black Caucus, who have served as the conscience of Congress on this issue.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 316, S. 1789.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1789) to restore fairness to Federal cocaine sentencing.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment

to strike all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Fair Sentencing Act of 2010”.

**SEC. 2. COCAINE SENTENCING DISPARITY REDUCTION.**

(a) CSA.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in subparagraph (A)(iii), by striking “50 grams” and inserting “280 grams”; and

(2) in subparagraph (B)(iii), by striking “5 grams” and inserting “28 grams”.

(b) IMPORT AND EXPORT ACT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (1)(C), by striking “50 grams” and inserting “280 grams”; and

(2) in paragraph (2)(C), by striking “5 grams” and inserting “28 grams”.

**SEC. 3. ELIMINATION OF MANDATORY MINIMUM SENTENCE FOR SIMPLE POSSESSION.**

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by striking the sentence beginning “Notwithstanding the preceding sentence,”.

**SEC. 4. INCREASED PENALTIES FOR MAJOR DRUG TRAFFICKERS.**

(a) INCREASED PENALTIES FOR MANUFACTURE, DISTRIBUTION, DISPENSATION, OR POSSESSION WITH INTENT TO MANUFACTURE, DISTRIBUTE, OR DISPENSE.—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(1) in subparagraph (A), by striking “\$4,000,000”, “\$10,000,000”, “\$8,000,000”, and “\$20,000,000” and inserting “\$10,000,000”, “\$50,000,000”, “\$20,000,000”, and “\$75,000,000”, respectively; and

(2) in subparagraph (B), by striking “\$2,000,000”, “\$5,000,000”, “\$4,000,000”, and “\$10,000,000” and inserting “\$5,000,000”, “\$25,000,000”, “\$8,000,000”, and “\$50,000,000”, respectively.

(b) INCREASED PENALTIES FOR IMPORTATION AND EXPORTATION.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (1), by striking “\$4,000,000”, “\$10,000,000”, “\$8,000,000”, and “\$20,000,000” and inserting “\$10,000,000”, “\$50,000,000”, “\$20,000,000”, and “\$75,000,000”, respectively; and

(2) in paragraph (2), by striking “\$2,000,000”, “\$5,000,000”, “\$4,000,000”, and “\$10,000,000” and inserting “\$5,000,000”, “\$25,000,000”, “\$8,000,000”, and “\$50,000,000”, respectively.

**SEC. 5. ENHANCEMENTS FOR ACTS OF VIOLENCE DURING THE COURSE OF A DRUG TRAFFICKING OFFENSE.**

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines to ensure that the guidelines provide an additional penalty increase of at least 2 offense levels if the defendant used violence, made a credible threat to use violence, or directed the use of violence during a drug trafficking offense.

**SEC. 6. INCREASED EMPHASIS ON DEFENDANT'S ROLE AND CERTAIN AGGRAVATING FACTORS.**

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines to ensure an additional increase of at least 2 offense levels if—

(1) the defendant bribed, or attempted to bribe, a Federal, State, or local law enforcement official in connection with a drug trafficking offense;

(2) the defendant maintained an establishment for the manufacture or distribution of a controlled substance, as generally described in section 416 of the Controlled Substances Act (21 U.S.C. 856); or

(3)(A) the defendant is an organizer, leader, manager, or supervisor of drug trafficking activity subject to an aggravating role enhancement under the guidelines; and

(B) the offense involved 1 or more of the following super-aggravating factors:

(i) The defendant—

(I) used another person to purchase, sell, transport, or store controlled substances;

(II) used impulse, fear, friendship, affection, or some combination thereof to involve such person in the offense; and

(III) such person had a minimum knowledge of the illegal enterprise and was to receive little or no compensation from the illegal transaction.

(ii) The defendant—

(I) knowingly distributed a controlled substance to a person under the age of 18 years, a person over the age of 64 years, or a pregnant individual;

(II) knowingly involved a person under the age of 18 years, a person over the age of 64 years, or a pregnant individual in drug trafficking;

(III) knowingly distributed a controlled substance to an individual who was unusually vulnerable due to physical or mental condition, or who was particularly susceptible to criminal conduct; or

(IV) knowingly involved an individual who was unusually vulnerable due to physical or mental condition, or who was particularly susceptible to criminal conduct, in the offense.

(iii) The defendant was involved in the importation into the United States of a controlled substance.

(iv) The defendant engaged in witness intimidation, tampered with or destroyed evidence, or otherwise obstructed justice in connection with the investigation or prosecution of the offense.

(v) The defendant committed the drug trafficking offense as part of a pattern of criminal conduct engaged in as a livelihood.

**SEC. 7. INCREASED EMPHASIS ON DEFENDANT'S ROLE AND CERTAIN MITIGATING FACTORS.**

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and policy statements to ensure that—

(1) if the defendant is subject to a minimal role adjustment under the guidelines, the base offense level for the defendant based solely on drug quantity shall not exceed level 32; and

(2) there is an additional reduction of 2 offense levels if the defendant—

(A) otherwise qualifies for a minimal role adjustment under the guidelines and had a minimum knowledge of the illegal enterprise;

(B) was to receive no monetary compensation from the illegal transaction; and

(C) was motivated by an intimate or familial relationship or by threats or fear when the defendant was otherwise unlikely to commit such an offense.

**SEC. 8. EMERGENCY AUTHORITY FOR UNITED STATES SENTENCING COMMISSION.**

The United States Sentencing Commission shall—

(1) promulgate the guidelines, policy statements, or amendments provided for in this Act as soon as practicable, and in any event not later than 90 days after the date of enactment of this Act, in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note), as though the authority under that Act had not expired; and

(2) pursuant to the emergency authority provided under paragraph (1), make such conforming amendments to the Federal sentencing guidelines as the Commission determines necessary to achieve consistency with other guideline provisions and applicable law.

**SEC. 9. REPORT ON EFFECTIVENESS OF DRUG COURTS.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Com-

troller General of the United States shall submit to Congress a report analyzing the effectiveness of drug court programs receiving funds under the drug court grant program under part EE of title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797–u et seq.).

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

(1) assess the efforts of the Department of Justice to collect data on the performance of federally funded drug courts;

(2) address the effect of drug courts on recidivism and substance abuse rates;

(3) address any cost benefits resulting from the use of drug courts as alternatives to incarceration;

(4) assess the response of the Department of Justice to previous recommendations made by the Comptroller General regarding drug court programs; and

(5) make recommendations concerning the performance, impact, and cost-effectiveness of federally funded drug court programs.

**SEC. 10. UNITED STATES SENTENCING COMMISSION REPORT ON IMPACT OF CHANGES TO FEDERAL COCAINE SENTENCING LAW.**

Not later than 5 years after the date of enactment of this Act, the United States Sentencing Commission, pursuant to the authority under sections 994 and 995 of title 28, United States Code, and the responsibility of the United States Sentencing Commission to advise Congress on sentencing policy under section 995(a)(20) of title 28, United States Code, shall study and submit to Congress a report regarding the impact of the changes in Federal sentencing law under this Act and the amendments made by this Act.

Mr. LEAHY. Mr. President, today, I join Senators from both sides of the aisle to pass the historic and bipartisan Fair Sentencing Act.

The racial imbalance that has resulted from the cocaine sentencing disparity disparages the Constitution's promise of equal treatment for all Americans. Although this bill is not perfect, its passage marks a significant step forward in making our drug laws fairer and more rational. Despite my belief that parity was the better policy, I have joined with Senator DURBIN and support the progress represented by his compromise with Senator SESSIONS. It reduces the disparities that leave some in jail for years while their more privileged counterparts go home after relatively brief sentences. Today, that compromise means we are one step closer to fixing this decades-old injustice. I commend Senators DURBIN, SESSIONS, GRAHAM, COBURN, and HATCH for negotiating the compromise that allowed this important piece of legislation to pass the Senate Judiciary Committee by a unanimous vote. As chairman, I was able to report on behalf of the Senate Judiciary Committee the first measure we have ever been able to approve that begins to undo the unjust sentencing disparity.

For more than 20 years, our Nation has used a Federal cocaine sentencing policy that treats “crack” offenders 100 times more harshly than other cocaine offenders, without a legitimate basis for the difference. We know that there is little or no pharmacological distinction between crack and powder cocaine, yet the resulting punishments for these offenses is radically different

and unjust. This policy is wrong and unfair, and it has needlessly swelled our prisons, wasting precious Federal resources.

These disproportionate punishments have had a disparate impact on minority communities. This is unjust and runs contrary to our fundamental principles of equal justice under law. According to the latest statistics of the independent and nonpartisan United States Sentencing Commission, African Americans continue to make up the large majority of Federal crack cocaine convictions, accounting for 80 percent of all Federal crack cocaine offenses, while they represent a much smaller fraction of those who use the drug. In a letter to our committee, John Payton, the president of the NAACP Legal Defense Fund, called this disparity "one of the most notorious symbols of racial discrimination in the modern criminal justice system."

These disparate penalties, which Congress created in the mid-1980s, have failed to address basic concerns. The primary goal underlying the crack sentence structure was to punish the major traffickers and drug kingpins who were bringing crack into our neighborhoods. But the law has not been used to go after the most serious offenders. In fact, just the opposite has happened. The Sentencing Commission has reported for many years that more than half of Federal crack cocaine offenders are low-level street dealers and users, not the major traffickers Congress intended to target.

The Fair Sentencing Act of 2009 returns the focus of Federal cocaine sentencing policy to drug kingpins, rather than street level dealers, and eliminates the mandatory minimum sentence for possession of crack cocaine. The 5-year mandatory minimum sentence penalty for simple possession of crack is unique under Federal law. There is no other mandatory minimum for mere simple possession of a commonly abused drug.

This bill does not legalize drugs, nor does it eliminate harsh sentences. In fact, this bill toughens some penalties. It increases fines for major drug traffickers and provides sentencing enhancements for acts of violence committed during the course of a drug trafficking offense. But this bill also helps to ensure that our system will no longer affect many minority and urban communities more harshly than offenders who use drugs in the suburbs and corporate offices. That inequality has reduced trust in law enforcement and cooperation with police, which makes us all less safe.

American justice is about fairness for each individual. To have faith in our system, Americans must have confidence that the laws of this country, including our drug laws, are fair and administered fairly. We must be smarter in our Federal drug policy. Law enforcement has been and continues to be a central part of our efforts against illegal drugs, but we must also find

meaningful, community-based solutions which enable people to feel they are being treated fairly. I look forward to working with Chief Kerlikowske, the director of the President's Office of National Drug Control Policy, to develop and deploy such a strategy.

Since 1995, the United States Sentencing Commission has issued report after report calling on Congress to address this unfair sentencing disparity. We would not be making the progress we are today without the leadership of the United States Sentencing Commission. I thank them and their chairman, Judge William Sessions.

I thank the U.S. Department of Justice for the testimony of Assistant Attorney General Lanny Breuer at our hearing on this matter last year. Attorney General Eric Holder also reminded us that "the stakes are simply too high to let reform in this area wait any longer." I agree. It is time for the Senate and House to act.

After more than 20 years, the Senate has finally acted on legislation to correct the crack-powder disparity and the harm to public confidence in our justice system it created. Although this bill is not perfect and it is not the bill we introduced in order to correct these inequalities, I believe the Fair Sentencing Act moves us one step closer to reaching the important goal of equal justice for all. I urge the House to act quickly so that the President can sign this historic legislation into law.

Mr. DURBIN. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1789), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. DURBIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS CONSENT AGREEMENT—H.R. 1586

Mr. DURBIN. Mr. President, I ask unanimous consent that on Thursday, March 18, after the Senate resumes consideration of H.R. 1586, the Senate then debate concurrently the Sessions-McCaskill amendment No. 3453 and the Pryor amendment No. 3548; that the

amendments be debated concurrently until 11:30 a.m., with the time equally divided and controlled between Senators SESSIONS and PRYOR or their designees, with no amendments in order prior to the vote; that the amendments then be set aside until 2 p.m., and at 2 p.m., the Senate proceed to vote in relation to the amendments, with the Sessions-McCaskill amendment voted first in the sequence; that prior to each vote, there be 2 minutes of debate, equally divided and controlled in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR THURSDAY, MARCH 18, 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, March 18; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of H.R. 1586, as provided for under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. DURBIN. Mr. President, tomorrow we will resume consideration of the FAA reauthorization legislation. Senators should expect at least two votes to begin at 2 p.m.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Thursday, March 18, 2010, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### THE JUDICIARY

LEONARD PHILIP STARK, OF DELAWARE, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE, VICE KENT A. JORDAN, ELEVATED.

AMY TOTENBERG, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE JACK T. CAMP, JR., RETIRED.

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### To be general

LT. GEN. EDWARD A. RICE, JR.