

DRAFT

Sentencing Reform Act of 2015

(Introduced by Reps. Goodlatte, Conyers, Jackson Lee)

Section-by-Section

Section 2. Reforms and Focuses Recidivist Mandatory Minimum Sentences for Prior Felony Drug Offenders, and Establishes a Sentencing Enhancement for Fentanyl. This section reduces the penalty for a “third strike” from life imprisonment to 25 years, and reduces the 20-year minimum for a second offense to 15 years. It limits the drug offenses triggering a recidivist enhancement to drug trafficking offenses in the Controlled Substances Act (CSA), the Controlled Substances Import-Export Act (CSIEA), and state offenses carrying a maximum penalty of ten years. These provisions can be applied retroactively unless the offender has a prior conviction for a serious violent felony that carries three criminal history points. The bill also expands the offenses triggering a recidivist enhancement under the CSA and the CSIEA to include serious violent felonies and 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. This section expands the existing drug “safety valve” for low level non-violent offenders convicted of mandatory minimum drug offenses. The current safety valve applies to offenders with no more than one criminal history point and this section expands it to four points. The expansion excludes offenders with certain 3-point prior felonies, or 2-point prior violent or drug trafficking convictions. This section also allows a judge, prior to application of the safety valve factors, to invoke an existing mechanism under the Sentencing Guidelines allowing the court 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.

Section 4. Creates a Second Safety Valve that Preserves but Focuses the 10-Year Mandatory Minimum to Certain Drug Offenders. This section creates a second safety valve that allows judges to reduce the sentence for certain offenders from a 10-year mandatory minimum to a 5-year mandatory minimum regardless of criminal history points. Like the existing safety valve, the offender 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, but an offender will not be disqualified for failure to possess relevant or new information. 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.

Section 5. Clarifies and Reduces the Recidivist Mandatory Minimums Sentence for Certain Firearm Offenses but Expands its Application to Similar Prior State Convictions. This section clarifies that the recidivist mandatory minimum sentence for using a firearm during a crime of violence or drug trafficking crime (18 U.S.C. § 924(c)) is limited to offenders who have previously been convicted and served a sentence for such an offense. This change is applied retroactively. The bill also reduces that enhanced mandatory minimum from 25 years to 15 years. This reduction cannot be applied retroactively if the offender has a prior conviction for a serious violent felony. The section also expands the applicable predicate offenses 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 Recidivist 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, while also reducing the recidivist mandatory minimum for armed career criminals from 15 to 10 years. The reduction cannot be applied retroactively if the offender has a prior conviction for a serious violent felony.

Section 7. Retroactive Application of Fair Sentencing Act. This section provides for retroactive application of the Fair Sentencing Act of 2010 (FSA) to offenders sentenced under the CSA and CSIEA for trafficking in crack cocaine prior to FSA enactment. In doing so, this section provides relief to offenders who 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 ineligible, and offenders who only received a reduction to the mandatory minimum. Relief under this section is not available to offenders who already received reduction to a sentence greater than the applicable mandatory minimum or whose motions for sentence reduction were denied because the offender posed a danger to any person or the community or prison misconduct.