

--S.1789--

S.1789

One Hundred Eleventh Congress**of the****United States of America****AT THE SECOND SESSION**

Begun and held at the City of Washington on Tuesday,

the fifth day of January, two thousand and ten

An Act

To restore fairness to Federal cocaine sentencing.

*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 '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

States
release of at
law enforcement official in
or distribution of a controlled substance, <
(21 U.S.C. 856); or
visor of drug trafficking activity subject to an
aggravating factors:
, transport, or store controlled substances;
action, or some combination thereof to involve such person in tr
knowledge of the illegal enterprise and was to receive little or
transaction.

and a controlled substance to a person under the age of 18 years,
or a pregnant individual;
olved a person under the age of 18 years, a person over the age
ual in drug trafficking;
ly distributed a controlled substance to an individual who was u
mental condition, or who was particularly susceptible to crimina
wingly involved an individual who was unusually vulnerable dur
o was particularly susceptible to criminal conduct, in the offense
e defendant was involved in the importation into the United State
The defendant engaged in witness intimidation, tampered with r
structed justice in connection with the investigation or prosecut
SEC. 7. INCREASED EMPHASIS ON DEFENDANT'S ROLE A
Pursuant to its authority under section 994 of title 28, United St
shall review and amend the Federal sentencing guidelines and
(1) if the defendant is subject to a minimal role adjur
defendant based solely on drug quantity shall not e
(2) there is an additional reduction of 2 offense
(A) otherwise qualifies for a minimal role
the illegal enterprise;
(B) was to receive no monetary cr
(C) was motivated by an intimid
otherwise unlikely to commit

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 Comptroller 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 I 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.

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

END