



IN THE CONGRESS OF THE UNITED STATES

APRIL 21, 2020

Mr. HOLBROOK (for himself, Mr. JAMES, Mr. LUKAS, Mr. MILLER, Mr. WONDER, and Mr. ETHAN) introduced the following bill;

AN ACT

To decriminalize certain drug offenses, democratize justice, proportionate sentences, and humanize incarceration.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Justice Reform Act of 2020”.

SEC. 2. RETURNING SENTENCING DISCRETION TO COURTS.

(a) In General.— Title 18 of the U.S. Code is amended—

(1) in chapter 1 by inserting the following new section:

“§ 14. Discretion of the courts in sentencing

“Without exception, a federal court of the United States shall have, for any crime which is not a crime

“punishable by death or life imprisonment, the authority to sentence an individual to fines or a term of

“imprisonment which is less than the minimum fine or term of imprisonment provided by any title.

(2) in section 3742(a)(4) by striking “.” and inserting “; or”.

(3) in section 3742(a) by inserting the following new paragraphs:

“(5) is plainly disproportionate to the offense committed; or

“(6) is unreasonably longer than the average sentence issued for the same offense or very similar offenses.

(4) in section 3742(b)(4) by striking “.” and inserting “; or”.

(5) in section 3742(b) by inserting the following new paragraphs:

“(5) is plainly disproportionate to the offense committed; or

“(6) is unreasonably longer than the average sentence issued for the same offense or very similar offenses.

SEC. 3. DECRIMINALIZING CERTAIN DRUGS, SIMPLE POSSESSION.

(a) In General.— Title 21 of the U.S. Code is amended—

(1) in section 812(c) by striking paragraphs (9), (10), (10), (12), (15), and (16);

(2) in section 841(b)(1)(A) by striking clauses (v) and (vii);

(3) in section 841(b)(1)(B) by striking clauses (v) and (vii);

(4) in section 841(b)(1) by striking paragraph (D);

(5) by striking sections 844 and 844a.

SEC. 4. INCREASING EARLY RELEASE CREDIT; MAXIMUM SENTENCE FOR NONCAPITAL OFFENSES.

(a) In General.— Title 18 of the U.S. Code is amended—

(1) in section 3624(b) by striking “54 days” and inserting “73 days”.

(2) in subchapter A of chapter 227 by adding at the end the following new section:

“§ 3560. Maximum term of imprisonment

“(a) In General.— No individual shall be sentenced—

“(1) to a term of imprisonment for any criminal offense which, if committed by an adult, would not be a
“criminal offense.

“(2) to a term of imprisonment of more than twelve months, except for an offense which resulted in
“direct or immediate injury to any identifiable person or property.

“(3) to a term of imprisonment of more than fifteen years, except for a crime of violence;

“(4) to a term of imprisonment of more than thirty years, except for an offense which, after taking into
“account any mitigating or aggravating factors, would be punishable by death or life imprisonment;

“(5) to death or life imprisonment, except for committing an act of premeditated murder, which after a
“preponderance of evidence, a court finds without any reasonable doubt was conducted in such a cruel
“and depraved manner as to justify the imposition of a sentence of death or life imprisonment.

SEC. 5. REGULATIONS AND CONDITIONS WITH RESPECT TO SOLITARY CONFINEMENT.

(a) In General.— Title 18 of the U.S. Code is amended in chapter 301 by adding the following new section:

“§ 4015. Solitary confinement

“(a) Definitions.— In this section—

“(1) the term “covered inmate” means an inmate who is being proceeded against under this chapter for
“an alleged criminal offense;

“(2) the term “correctional facility” means any penal or correctional facility where inmates are—

“(A) committed pursuant to an adjudication for any criminal offense under this title; or

“(B) detained prior to disposition or conviction; and

“(3) the term “solitary confinement” means the involuntary placement of a covered inmate alone in a
“cell, room, or other area for any reason.

“(b) Prohibition on room confinement in prison facilities

“(1) In General.— The use of solitary confinement at a for discipline, punishment, retaliation, or any
“reason other than as a response to an inmate's behavior that poses a serious and immediate risk of
“physical harm to any individual, including the inmate is prohibited.

“(2) Inmates Posing Risk Of Harm.—

“(A) Requirement to use the least restrictive techniques.—

“(i) In general.— Before a staff member of a correctional facility places a covered inmate in

“room confinement, the staff member shall attempt to use less restrictive techniques, including—

“(I) talking with the covered inmate in an attempt to de-escalate the situation; and

“(II) permitting a qualified mental health professional to talk to the covered inmate.

“(ii) Explanation.— If, after attempting to use less restrictive techniques as required under

“clause (i), a staff member of a correctional facility decides to place a covered inmate in solitary
“confinement, the staff member shall first—

“(I) explain to the covered inmate the reasons for the solitary confinement; and

“(II) inform the covered inmate that release from room confinement will occur—

“(aa) immediately when the covered inmate regains self-control, as described in

“subparagraph (B)(i); or

“(bb) not later than after the expiration of the time period described in subclause (I) or (II)

“of subparagraph (B)(ii), as applicable.

“(B) Maximum period of confinement.— If a covered inmate is placed in solitary confinement

“because the covered inmate poses a serious and immediate risk of physical harm to themselves, or to

“others, the covered inmate shall be released—

“(i) immediately when the covered inmate has sufficiently regained self control as to no longer
“engage in behaviour that threatens serious and immediate risk of physical harm to themselves, or
“to others; or
“(ii) if a covered inmate does not sufficiently gain control as described in clause (i), not later
“than—
 “(I) 3 hours after being placed in solitary confinement, in the case of a covered inmate who
 “poses a serious and immediate risk of physical harm to others; or
 “(II) 30 minutes after being placed in solitary confinement, in the case of a covered inmate
 “who poses a serious and immediate risk of physical harm only to themselves.
“(C) Risk of harm after maximum period of confinement.— If, after the applicable maximum period
“of confinement under subclause (I) or (II) of subparagraph (B)(ii) has expired, a covered inmate
“continues to pose a serious and immediate risk of physical harm described in that subclause—
 “(i) the covered inmate shall be transferred to another correctional facility or internal location
 “where services can be provided to the covered inmate without relying on solitary confinement;
 or
 “(ii) if a qualified mental health professional believes the level of crisis service needed is not
 “currently available, a staff member of the correctional facility shall initiate a referral to a location
 “that can meet the needs of the covered inmate.
“(D) Spirit and purpose.— The use of consecutive periods of solitary confinement to evade the spirit
“and purpose of this subsection shall be prohibited.

SEC. 6. STATES INELIGIBLE FOR CERTAIN FUNDS UNLESS ABIDING BY MINIMUM FEDERAL STANDARDS.

(a) In General.— Title 23 of the U.S. Code is amended in chapter 1 by inserting the following new section:

“§ 160. National correctional standards

“(a) Withholding Of Funds For Noncompliance.

“(1) In General.— The Secretary shall withhold fifteen percent of the amount required to be apportioned
“to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(4) of this title on the first day of
“each fiscal year after the second fiscal year beginning after September 30, 2021, in which it is—

“(A) lawful—

 “(i) to hold a prisoner in solitary confinement for discipline, punishment, retaliation, or any
 “reason other than as a response to an inmate's behavior that poses a serious and immediate
 “risk of physical harm to any individual;
 “(ii) for any individual to be sentenced to more than thirty years of imprisonment for a crime
 “other than a crime punishable by death or life imprisonment;
 “(iii) to place restraints, beginning on the date on which pregnancy is confirmed by a healthcare
 “professional, and ending at the conclusion of postpartum recovery, a prisoner, except for a
 “reason provided in section 4322(b) of title 18.

“(B) unlawful—

 “(i) for any court to sentence an individual, for a crime which is not a crime punishable by death
 “or life imprisonment, to a term of imprisonment which is less than the minimum term of
 “imprisonment provided by any law of such State;
 “(ii) for any prisoner to issue an appeal or file a complaint to a court or appropriate authorities
 “with respect to—
 “(I) an abuse, maltreatment, or violation of law by any law enforcement official or prison staff;
 “(II) their sentence being unduly harsh or substantively harsher than that provided to
 “individuals convicted of the same or similar offenses.

“(2) State Grandfathering Law As Complying.— If, before the later of October 1, 2022, or the tenth day
“following the last day of the first session the legislature of a State convenes after the date of the

“enactment of this paragraph, such State has in effect a law which makes unlawful the activities listed
“under paragraph (1), such State shall be deemed to be in compliance with paragraph (1) in each fiscal
“year in which such law is in effect.

“(b) Effect Of Withholding Of Funds.— No funds withheld under this section from apportionment to any
“State after September 30, 2024, shall be available for apportionment to that State.

“(c) Definitions.— For purposes of this section—

“(1) the term “prisoner” means a person who has been sentenced to a term of imprisonment pursuant to
“a conviction for a State or Federal criminal offense, or a person in the custody of any State department
“of corrections, or law enforcement official.

“(2) the terms “restraints” and “postpartum recovery” shall have the same meanings as those provided
“by section 4322(g) of title 18.

SEC. 8. MISCELLANEOUS AMENDMENTS.

(a) In General.— Title 18 of the U.S. Code is amended—

(1) by striking section 1791 and inserting the following:

“§ 1791. Providing or possessing contraband in prison

“(a) Offense.— Whoever—

“(1) in violation of a statute or rule or order issued under a statute, provides to an inmate of a prison a
“prohibited object, or attempts to do so; or

“(2) being an inmate of a prison, makes, possesses, or obtains, or attempts to make or obtain, a
prohibited “object;

“shall be punished as provided in subsection (b) of this section.

“(b) Punishment.— The punishment for an offense under this section is a fine under this title or—

“(1) imprisonment for not more than 8 years, or both if the object is specified in subsection (d)(1)(A);

“(2) imprisonment for not more than 5 year, or both if the object is specified in subsection (d)(1)(B);

“(3) imprisonment for not more than 3 years, or both if the object is specified in subsection (d)(1)(C);

“(c) Consecutive Punishment Required.— Any punishment imposed under subsection (b) for a violation of
“this section by an inmate of a prison shall be consecutive to the sentence being served by such inmate at
“the time the inmate commits such violation.

“(d) Definitions.— As used in this section—

“(1) the term “prohibited object” means—

“(A) a firearm or destructive device;

“(B) ammunition, a weapon (other than a firearm or destructive device), or an object that is designed
or “intended to be used as a weapon or to facilitate escape from a prison;

“(C) any other object that threatens the security of a prison, or the life, health, or safety of an
individual;

“(2) the terms “ammunition”, “firearm”, and “destructive device” have, respectively, the meanings given
“those terms in section 921 of this title;

“(3) the term “prison” means a Federal correctional, detention, or penal facility or any prison, institution,
or “facility in which persons are held in custody by direction of or pursuant to a contract or agreement
with the “Attorney General.

(2) by striking section 2252.

(3) in section 3287 by striking “5 years” and inserting “3 years”.

(4) in section 2252A by striking subsection (b) and inserting the following:

“(b) Whoever violates, or attempts to violate, any paragraph of subsection (a)—

“(1) shall be fined under this title for each unique visual depiction—

“(i) involving a minor of 16 or more years in age, not more than \$50,

“(ii) involving a minor of 13 or more years in age, not more than \$300,

“(iii) involving a minor of less than 13 years in age, not more than \$1,800,
“(2) shall be imprisoned under this title for each unique visual depiction—
“(i) involving a minor of 16 or more years in age, not more than 5 days,
“(iii) involving a minor of 13 or more years in age, not more than 30 days,
“(v) involving a minor of fewer than 13 years in age, not more than six months,
“consecutively, but not more than five years for the sum of offenses, unless a jury finds upon
“a preponderance of evidence that the sum of offenses reflected a degree of depravity and
“indecenty which would justify a sentence of more than five years, in which case the
“sentence shall be not more than fifteen years.

(5) in section 3565(b) by striking paragraphs (1), (3), and (4);

(6) in section 5031 by striking “eighteenth” where it applies and inserting “nineteenth” in each place.

(7) in section 5038 by inserting the following new subsection:

“(g) Any fingerprints or photographs taken in accordance with subsection (d) shall be erased not more than
“five years from the date which such juvenile delinquent last committed an act which if committed by an
“adult would be a felony crime of violence or an offense described in section 401 of the Controlled
“Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act.

SEC. 9. ENACTMENT.

(a) Effective Date.—The amendments made by this act shall apply immediately upon passage.