

114TH CONGRESS  
1ST SESSION

# H. R. 920

To focus limited Federal resources on the most serious offenders.

---

## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2015

Mr. LABRADOR (for himself, Mr. SCOTT of Virginia, Mr. CONYERS, and Mr. MASSIE) 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

---

## A BILL

To focus limited Federal resources on the most serious offenders.

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 “Smarter Sentencing  
5 Act of 2015”.

6 **SEC. 2. APPLICABILITY OF STATUTORY MINIMUMS.**

7 Section 3553(f)(1) of title 18, United States Code,  
8 is amended by striking “defendant” and all that follows

1 through “point” and inserting “criminal history category  
2 for the defendant is not higher than category 2”.

3 **SEC. 3. CLARIFICATION OF APPLICABILITY OF THE FAIR**  
4 **SENTENCING ACT.**

5 (a) DEFINITION OF COVERED OFFENSE.—In this  
6 section, the term “covered offense” means a violation of  
7 a Federal criminal statute, the statutory penalties for  
8 which were modified by section 2 or 3 of the Fair Sen-  
9 tencing Act of 2010 (Public Law 111–220; 124 Stat.  
10 2372), that was committed before August 3, 2010.

11 (b) DEFENDANTS PREVIOUSLY SENTENCED.—A  
12 court that imposed a sentence for a covered offense, may,  
13 on motion of the defendant, the Director of the Bureau  
14 of Prisons, the attorney for the Government, or the court,  
15 impose a reduced sentence as if sections 2 and 3 of the  
16 Fair Sentencing Act of 2010 (Public Law 111–220; 124  
17 Stat. 2372) were in effect at the time the covered offense  
18 was committed.

19 (c) LIMITATIONS.—No court shall entertain a motion  
20 made under this section to reduce a sentence if the sen-  
21 tence was previously imposed or previously reduced in ac-  
22 cordance with the amendments made by sections 2 and  
23 3 of the Fair Sentencing Act of 2010 (Public Law 111–  
24 220; 124 Stat. 2372) or if a motion made under this sec-  
25 tion to reduce the sentence was previously denied. Nothing

1 in this section shall be construed to require a court to re-  
2 duce any sentence pursuant to this section.

3 **SEC. 4. SENTENCING MODIFICATIONS FOR CERTAIN DRUG**  
4 **OFFENSES.**

5 (a) CONTROLLED SUBSTANCES ACT.—The Con-  
6 trolled Substances Act (21 U.S.C. 801 et seq.) is amend-  
7 ed—

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

10 “(57) The term ‘courier’ means a defendant  
11 whose role in the offense was limited to transporting  
12 or storing drugs or money.”; and

13 (2) in section 401(b)(1) (21 U.S.C.  
14 841(b)(1))—

15 (A) in the flush text following clause  
16 (viii)—

17 (i) by striking “10 years or more”  
18 and inserting “5 years or more”;

19 (ii) by striking “such person shall be  
20 sentenced to a term of imprisonment which  
21 may not be less than 20 years and” and  
22 inserting “such person shall be sentenced  
23 to a term of imprisonment of not less than  
24 10 years and”; and

1 (iii) by striking “mandatory term of  
2 life imprisonment without release” and in-  
3 sserting “term of imprisonment of not less  
4 than 20 years”; and

5 (B) in the flush text following clause  
6 (viii)—

7 (i) by striking “5 years” and inserting  
8 “2 years”; and

9 (ii) by striking “not be less than 10  
10 years” and inserting “not be less than 5  
11 years”.

12 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT  
13 ACT.—Section 1010(b) of the Controlled Substances Im-  
14 port and Export Act (21 U.S.C. 960(b)) is amended—

15 (1) in paragraph (1), in the flush text following  
16 subparagraph (H)—

17 (A) by inserting “, other than a person  
18 who is a courier,” after “such violation”;

19 (B) by striking “person commits” and in-  
20 sserting “person, other than a courier, com-  
21 mits”; and

22 (C) by inserting “If a person who is a cou-  
23 rier commits such a violation, the person shall  
24 be sentenced to a term of imprisonment of not  
25 less than 5 years and not more than life. If a

1 person who is a courier commits such a viola-  
2 tion after a prior conviction for a felony drug  
3 offense has become final, the person shall be  
4 sentenced to a term of imprisonment of not less  
5 than 10 years and not more than life.” before  
6 “Notwithstanding section 3583”; and

7 (2) in paragraph (2), in the flush text following  
8 subparagraph (H)—

9 (A) by inserting “, other than a person  
10 who is a courier,” after “such violation”;

11 (B) by striking “person commits” and in-  
12 serting “person, other than a courier, com-  
13 mits”; and

14 (C) by inserting “If a person who is a cou-  
15 rier commits such a violation, the person shall  
16 be sentenced to a term of imprisonment of not  
17 less than 2 years and not more than life. If a  
18 person who is a courier commits such a viola-  
19 tion after a prior conviction for a felony drug  
20 offense has become final, the person shall be  
21 sentenced to a term of imprisonment of not less  
22 than 5 years and not more than life.” before  
23 “Notwithstanding section 3583”.

1 **SEC. 5. DIRECTIVE TO THE SENTENCING COMMISSION.**

2 (a) DIRECTIVE TO SENTENCING COMMISSION.—Pur-  
3 suant to its authority under section 994(p) of title 28,  
4 United States Code, and in accordance with this section,  
5 the United States Sentencing Commission shall review and  
6 amend, if appropriate, its guidelines and its policy state-  
7 ments applicable to persons convicted of an offense under  
8 section 401 of the Controlled Substances Act (21 U.S.C.  
9 841) or section 1010 of the Controlled Substances Import  
10 and Export Act (21 U.S.C. 960) to ensure that the guide-  
11 lines and policy statements are consistent with the amend-  
12 ments made by sections 2 and 4 of this Act and reflect  
13 the intent of Congress that such penalties be decreased  
14 in accordance with the amendments made by section 4 of  
15 this Act.

16 (b) CONSIDERATIONS.—In carrying out this section,  
17 the United States Sentencing Commission shall con-  
18 sider—

19 (1) the mandate of the United States Sen-  
20 tencing Commission, under section 994(g) of title  
21 28, United States Code, to formulate the sentencing  
22 guidelines in such a way as to “minimize the likeli-  
23 hood that the Federal prison population will exceed  
24 the capacity of the Federal prisons”;

25 (2) the findings and conclusions of the United  
26 States Sentencing Commission in its October 2011

1 report to Congress entitled, Mandatory Minimum  
2 Penalties in the Federal Criminal Justice System;

3 (3) the fiscal implications of any amendments  
4 or revisions to the sentencing guidelines or policy  
5 statements made by the United States Sentencing  
6 Commission;

7 (4) the relevant public safety concerns involved  
8 in the considerations before the United States Sen-  
9 tencing Commission;

10 (5) the intent of Congress that penalties for  
11 violent, repeat, and serious drug traffickers who  
12 present public safety risks remain appropriately se-  
13 vere; and

14 (6) the need to reduce and prevent racial dis-  
15 parities in Federal sentencing.

16 (c) EMERGENCY AUTHORITY.—The United States  
17 Sentencing Commission shall—

18 (1) promulgate the guidelines, policy state-  
19 ments, or amendments provided for in this Act as  
20 soon as practicable, and in any event not later than  
21 120 days after the date of enactment of this Act, in  
22 accordance with the procedure set forth in section  
23 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994  
24 note), as though the authority under that Act had  
25 not expired; and

1           (2) pursuant to the emergency authority pro-  
2           vided under paragraph (1), make such conforming  
3           amendments to the Federal sentencing guidelines as  
4           the Commission determines necessary to achieve  
5           consistency with other guideline provisions and ap-  
6           plicable law.

7 **SEC. 6. REPORT BY ATTORNEY GENERAL.**

8           Not later than 6 months after the date of enactment  
9           of this Act, the Attorney General shall submit to the Com-  
10          mittees on the Judiciary of the House of Representatives  
11          and the Senate a report outlining how the reduced expend-  
12          itures on Federal corrections and the cost savings result-  
13          ing from this Act will be used to help reduce overcrowding  
14          in the Federal Bureau of Prisons, help increase proper in-  
15          vestment in law enforcement and crime prevention, and  
16          help reduce criminal recidivism, thereby increasing the ef-  
17          fectiveness of Federal criminal justice spending.

18 **SEC. 7. REPORT ON FEDERAL CRIMINAL OFFENSES.**

19          (a) DEFINITIONS.—In this section—

20                 (1) the term “criminal regulatory offense”  
21                 means a Federal regulation that is enforceable by a  
22                 criminal penalty; and

23                 (2) the term “criminal statutory offense”  
24                 means a criminal offense under a Federal statute.



1 (b) REPORT ON CRIMINAL STATUTORY OFFENSES.—  
2 Not later than 1 year after the date of enactment of this  
3 Act, the Attorney General shall submit to the Committee  
4 on the Judiciary of the Senate and the Committee on the  
5 Judiciary of the House of Representatives a report, which  
6 shall include—

7 (1) a list of all criminal statutory offenses, in-  
8 cluding a list of the elements for each criminal stat-  
9 utory offense; and

10 (2) for each criminal statutory offense listed  
11 under paragraph (1)—

12 (A) the potential criminal penalty for the  
13 criminal statutory offense;

14 (B) the number of prosecutions for the  
15 criminal statutory offense brought by the De-  
16 partment of Justice each year for the 15-year  
17 period preceding the date of enactment of this  
18 Act; and

19 (C) the mens rea requirement for the  
20 criminal statutory offense.

21 (c) REPORT ON CRIMINAL REGULATORY OF-  
22 FENSES.—

23 (1) REPORTS.—Not later than 1 year after the  
24 date of enactment of this Act, the head of each Fed-  
25 eral agency described in paragraph (2) shall submit

1 to the Committee on the Judiciary of the Senate and  
2 the Committee on the Judiciary of the House of  
3 Representatives a report, which shall include—

4 (A) a list of all criminal regulatory of-  
5 fenses enforceable by the agency; and

6 (B) for each criminal regulatory offense  
7 listed under subparagraph (A)—

8 (i) the potential criminal penalty for a  
9 violation of the criminal regulatory offense;

10 (ii) the number of violations of the  
11 criminal regulatory offense referred to the  
12 Department of Justice for prosecution in  
13 each of the years during the 15-year period  
14 preceding the date of enactment of this  
15 Act; and

16 (iii) the mens rea requirement for the  
17 criminal regulatory offense.

18 (2) AGENCIES DESCRIBED.—The Federal agen-  
19 cies described in this paragraph are the Department  
20 of Agriculture, the Department of Commerce, the  
21 Department of Education, the Department of En-  
22 ergy, the Department of Health and Human Serv-  
23 ices, the Department of Homeland Security, the De-  
24 partment of Housing and Urban Development, the  
25 Department of the Interior, the Department of

1 Labor, the Department of Transportation, the De-  
2 partment of the Treasury, the Commodity Futures  
3 Trading Commission, the Consumer Product Safety  
4 Commission, the Equal Employment Opportunity  
5 Commission, the Export-Import Bank of the United  
6 States, the Farm Credit Administration, the Federal  
7 Communications Commission, the Federal Deposit  
8 Insurance Corporation, the Federal Election Com-  
9 mission, the Federal Labor Relations Authority, the  
10 Federal Maritime Commission, the Federal Mine  
11 Safety and Health Review Commission, the Federal  
12 Trade Commission, the National Labor Relations  
13 Board, the National Transportation Safety Board,  
14 the Nuclear Regulatory Commission, the Occupa-  
15 tional Safety and Health Review Commission, the  
16 Office of Compliance, the Postal Regulatory Com-  
17 mission, the Securities and Exchange Commission,  
18 the Securities Investor Protection Corporation, the  
19 Environmental Protection Agency, the Small Busi-  
20 ness Administration, the Federal Housing Finance  
21 Agency, and the Office of Government Ethics.

22 (d) INDEX.—Not later than 2 years after the date  
23 of enactment of this Act—

24 (1) the Attorney General shall establish a pub-  
25 lically accessible index of each criminal statutory of-

1 fense listed in the report required under subsection  
2 (b) and make the index available and freely acces-  
3 sible on the website of the Department of Justice;  
4 and

5 (2) the head of each agency described in sub-  
6 section (c)(2) shall establish a publically accessible  
7 index of each criminal regulatory offense listed in  
8 the report required under subsection (c)(1) and  
9 make the index available and freely accessible on the  
10 website of the agency.

11 (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
12 tion shall be construed to require or authorize appropria-  
13 tions.

○