

POTENTIAL IMPACT & COST SAVINGS: THE SMARTER SENTENCING ACT

H.R. 3382 (Labrador-Scott) / S. 1410 (Lee-Durbin)

REFORM	WHO QUALIFIES	POTENTIAL IMPACT	COST SAVINGS
Reduces mandatory minimum sentences for certain drug offenses	Federal drug offenders who are subject to mandatory minimum sentences. Changes to MMs* are: <ul style="list-style-type: none"> - 20-year MM becomes 10-year MM for second drug offenses - 10-year MM becomes 5-year MM for first drug offenses (for certain quantities) - 5-year MM becomes 2-year MM for first drug offenses (for certain quantities) <p>The bill makes no changes to the 20-year and life MMs for drug offenses in which death or serious bodily injury results.</p>	In FY 2012, <ul style="list-style-type: none"> - 7,100 people were subject to the 5-year MM - 8,368 people were subject to the 10-year MM <p>Total = 15,468 people</p>	\$2,938,719,619 in first 10 years \$7,700,512,841 in second 10 years \$10,639,232,460 over 20 years
Expands drug safety valve, 18 U.S.C. § 3553(f)	Federal drug offenders who are facing a MM and have three criminal history points ¹ under the sentencing guidelines, AND who meet all of the following: <ul style="list-style-type: none"> - Confessed their involvement in the crime to prosecutor - Did not possess a gun or weapon - Used no violence or threats of violence - Were not a leader, organizer, manager, or supervisor - No death or serious bodily injury resulted from crime. 	2,180 people per year ²	\$123,492,870 in first 10 years \$123,492,870 in second 10 years \$246,985,740 over 20 years
Makes Fair Sentencing Act (FSA) retroactive	Federal prisoners sentenced before August 3, 2010, who received a MM based on the 100-to-1 crack-powder ratio. Under the FSA's new 18-to-1 ratio, 28 g crack or 500 g powder cocaine trigger a 5-year MM, and 280 g crack/5,000 g powder trigger a 10-year MM.	8,829 people, 87.7% of which are black, would be eligible to petition courts for sentence reductions ³	\$364,697,054 in first 10 years \$17,695,299 in second 10 years \$382,392,353 over 20 years
		TOTAL SAVINGS:	\$3,426,909,543 in first 10 years \$7,841,701,010 in second 10 years \$11,268,610,553 over 20 years

*MM = mandatory minimum sentence

¹ H.R. 3382 allows for up to three criminal history points for safety valve eligibility. As marked up by the Senate Judiciary Committee, S. 1410 has a narrower safety valve provision that only makes eligible those people who have *two* criminal history points under the sentencing guidelines *and* have not been convicted of a crime of violence, certain firearm offenses (18 U.S.C. §§ 922 or 924), a sex offense, a federal terrorism offense, racketeering, or investing drug proceeds.

² Statement of Judge Patti Saris, Chair, U.S. Sentencing Comm'n, submitted to the U.S. Senate Judiciary Committee for the Hearing on "Reevaluating the Effectiveness of Mandatory Minimum Sentences," Sept. 18, 2013, at 10 *available at* http://www.ussc.gov/Legislative_and_Public_Affairs/Congressional_Testimony_and_Reports/Submissions/20130918_SJC_Mandatory_Minimums.pdf.

³ *Id.* (using sentencing data from FY 2012). This number is likely smaller now, as some federal prisoners serving pre-FSA crack cocaine sentences have served their full pre-FSA sentences and been released since the estimate was made.

COST AVERSIONS: THE SMARTER SENTENCING ACT

H.R. 3382 (Labrador-Scott) / S. 1410 (Lee-Durbin)

<p style="text-align: center;">PRISON CONSTRUCTION COSTS AVERTED</p> <p>In 2013, federal prisons had the capacity to hold 132,221 people, but were 36% over that capacity, with a population of 176,484 prisoners. The DOJ's memo used a conservative estimate that the federal prison population will continue to grow at a rate of 1,600 prisoners per year (however, the current federal prison population has actually decreased slightly from the memo's original projections, from 176,484 to 173,227). Without reforms, DOJ estimates that 16 more prisons must be built to accommodate the increased prison population through 2023, to maintain a rate of 36% over capacity. Each prison is estimated to cost \$350 million.</p>	<p>\$2.1 billion in first 10 years</p> <p>\$3.5 billion in second 10 years</p> <p>\$5.6 billion over 20 years</p>
<p style="text-align: center;">PRISON STAFF COSTS AVERTED</p> <p>DOJ's memo uses a baseline inmate-to-staff ratio of 4.72 staff to 1 inmate. Without reforms, DOJ estimates that to maintain that ratio, it will have to hire 6,778 new staff at a cost of \$100,000 per person over the next 20 years.</p>	<p>\$1.864 billion in first 10 years</p> <p>\$5.253 billion in second 10 years</p> <p>\$7.117 billion dollars over 20 years</p>
<p>TOTAL SAVINGS:</p>	<p>\$3.964 billion in first 10 years</p> <p>\$8.753 billion in second 10 years</p> <p>\$12.7 billion over 20 years</p>

TOTAL COST SAVINGS & AVERSIONS: THE SMARTER SENTENCING ACT

H.R. 3382 (Labrador-Scott) / S. 1410 (Lee-Durbin)

	In first 10 years	In second 10 years	Over 20 years
Mandatory minimum sentence reductions	\$2,938,719,619	\$7,700,512,841	\$10,639,232,460
Expanded safety valve	\$123,492,870	\$123,492,870	\$246,985,740
Fair Sentencing Act retroactivity	\$364,697,054	\$17,695,299	\$382,392,353
Averted prison construction costs	\$2,100,000,000	\$3,500,000,000	\$5,600,000,000
Averted prison staff costs	\$1,864,000,000	\$5,253,000,000	\$7,117,000,000
TOTAL:	\$7,390,909,543	\$16,594,701,010	\$23,985,610,553