

**H.R. XXX**  
**The Sensenbrenner-Scott Over-Criminalization Task Force Safe, Accountable, Fair, Effective  
(SAFE) Justice Reinvestment Act of 2015**

**Section-by-Section Summary**

**Sec. 1—Short Title**

Provides that the Act may be cited as the “Sensenbrenner-Scott Over-Criminalization Task Force Safe, Accountable, Fair, Effective Justice Reinvestment Act of 2015” or the “Sensenbrenner-Scott SAFE Justice Reinvestment Act of 2015.”

**Sec. 2—Table of Contents**

Sets out the table of contents for the Act.

## **Title I – Identifying and Reducing Over-Federalization and Over-Criminalization by Respecting the Balance of Powers Among the States and the Federal Government**

### **Sec. 101—Compilation and Publication of Criminal Offenses to Provide Fair Notice to Address Over-Federalization**

Requires the Attorney General, in consultation with federal agencies, to compile and publish all federal offenses that carry criminal penalties on a publically available website by January 1, 2016, and to publicize the existence of that website.

Requires all federal agencies to obtain the express prior approval from the Attorney General to add any criminal penalty by agency regulation. In the event of approval, the Attorney General shall condition that approval on a sunset provision for that criminal penalty of no longer than five years.

### **Sec. 102—Procedures to Reduce Over-Federalization**

Requires the Attorney General to coordinate with federal agencies on cases on unlawful conduct to determine whether it would be best addressed by civil sanctions or criminal charges, if criminal charges are chosen by the Attorney General, whether diversion or criminal prosecution would be most appropriate.

Requires the Attorney to oversee the coordination between federal and state prosecutors and law enforcement to reduce the duplicative prosecutions of the same offender for the same conduct at both state and federal levels.

Requires the Inspector General to issue a report on the number of cases accepted for federal criminal prosecution that could have been handled by civilly by a federal agency or prosecuted by state or local law enforcement, the estimated federal correctional costs associated with those cases, the number of cases declined for federal criminal prosecution, and the estimated federal correctional savings.

### **Sec. 103—Procedures to Reduce Pre-Trial Detention**

Requires the Attorney General to provide guidance to federal prosecutors and law enforcement agencies in determining whether a summons or arrest warrant should issue for an offender's initial appearance in court, in light of the impact on the correctional population and budget, the availability of alternatives to reasonably assure the appearance of the offender, the disproportionate impact on individuals with fewer economic means, and the collateral consequences of pre-trial detention on employment and housing.

Requires the Inspector General to issue a report and recommendations.

**Sec. 104 —Creation of a Citizen Complaint Process.**

Requires the Attorney General to create a secure and confidential online complaint system to the Office of Professional Responsibility for individuals who believe their case is being mishandled by prosecutors.

Requires that the Office of the Inspector General, pursuant to its authority to detect and deter abuse and misconduct by auditing and inspecting DOJ programs to conduct an annual review of the citizen complaint process to determine whether the OPR has taken appropriate disciplinary measures against prosecutors who have mishandled cases or engaged in misconduct and to report all cases in which any judge or court has substantively discussed allegations a prosecutor or law enforcement officer engaged in misconduct, whether or not such a finding resulted in reversal or vacating of a conviction or sentence.

**Sec. 105 —Exclusion of Acquitted Conduction and Discretion to Disregard Manipulated Conduct from Consideration During Sentencing.**

Excludes acquitted conduction from consideration in sentencing.

Provides discretion to courts, in sentencing a defendant for drug-related offenses, to disregard any chargeable conduct or possession of drugs, firearms, or ammunition with respect to which the defendant was not charged, or in cases where the charges were dismissed.

Additionally, permits courts to disregard any chargeable conduct or possession in cases of “reverse stings and fictitious stash-house robberies” in which law enforcement solicited the defendant for the offense and determined the quantity and type of drugs, firearms, or ammunition.

Directs the Sentencing Commission to review and amend its guidelines and policy statements accordingly.

**Sec. 106—Focusing Federal Criminal Penalties for Simple Possession to Places of Special Federal Interest in Recognition of the Balance of Power Between the Federal Government and the States**

Limits the jurisdictions in which federal authorities can prosecute simple possession of controlled substances to those areas exclusively under federal control, such as military bases and national parks.

## **Title II – Addressing Information Disparity and Accuracy in Criminal Prosecutions to Protect Innocence More Robustly and Reduce the Number of Wrongful Convictions**

### **Sec. 201 – Findings and Declarations**

Sets out findings and declarations about the statistics on wrongful convictions and the practices that increase the risk of wrongful conviction.

### **Sec. 202—Reauthorization of the Innocence Protection Act of 2001**

Reauthorizes the Innocence Protection Act of 2001 from 2016 to 2021. That Act provides services that exonerate the innocent through DNA testing, ensure competent legal services in capital cases, respect the balance of power between the states and federal government in capital cases, and provide increased compensation to victims of wrongful conviction in capital and non-capital cases.

### **Sec. 203—Accuracy and Reliability of Evidence in Criminal Cases and Addressing Information Disparity in Criminal Cases**

Requires the Attorney General, in consultation with the Federal Public Defenders, the American Bar Association, the American Law Institute, and other expert organizations to develop and implement best practices for federal prosecutors and law enforcement officers to reduce the risk of inaccurate and unreliable evidence in criminal cases, including evidence preservation, interview strategies to decrease the likelihood of misidentification or false confession, and video recording of interviews and interrogations.

Requires the Attorney General, in consultation with the Federal Public Defenders, the American Bar Association, the American Law Institute, and other expert organizations, such as the Innocence Project, to develop and implement best practices for federal prosecutors and law enforcement officers to minimize information inequity between the government and the defense at all stages of the litigation.

Requires the Attorney General to adopt an “open file” discovery policy that permits the timely and continued obligation of disclosure to the defense of the full contents of all investigative and case files, excepting only privileged material or attorney work product. Preserves existing statutory obligations to redact or exclude certain information, as required by statute (e.g. rape shield laws, classified national security information), by permitting federal prosecutors to seek protective orders as the standard protocol in federal court.

### **Sec. 204—Notification Relating to Forensic, Prosecutorial, or Law Enforcement Misconduct**

Requires the Attorney General to notify all defendants whose cases involved technicians, facilities, prosecutors, or law enforcement officers who were found to have provided flawed forensic analysis or engaged in misconduct.

Provides remedial measures for affected defendants to have their evidence re-tested, to examine the investigative and case files, or petition for appropriate judicial relief.

**Sec. 205—Remedies**

Provides that the Attorney General may use his existing power to discipline a federal prosecutor or law enforcement officer for failure to follow these procedures.

Provides that the court may exclude from trial any evidence for which a federal prosecutor or law enforcement officer fails to comply under this title.

**Sec. 206—Toolkits for State and Local Government**

Directs the Attorney General to provide toolkits regarding training in best practices developed under this title to state and local governments and to encourage them to adopt these practices.

### **Title III – Encouraging Greater Use of Sentencing Alternatives for Lower-Level Offenders**

#### **Sec. 301—Eligibility for Pre-Judgment Probation.**

Expands the pool of drug offenders who are eligible to receive a sentence of pre-judgment probation to include offenders with prior possession and low-level retail convictions, while continuing to exclude those with prior state or federal high-level drug trafficking convictions.

#### **Sec. 302—Presumption in Favor of a Sentence of Probation in Limited Circumstances.**

Creates a presumption in favor of probation in limited circumstances in which the defendant is a first-time low-level non-violent offender who is capable of being supervised by probation and has not been convicted of a crime of violence or an otherwise serious enumerated offenses. The presumption in favor of probation for those non-excluded offenders may be overcome if the court makes a finding on the record that a term of probation would be inappropriate in light of public safety factors.

#### **Sec. 303—Directive to the Sentencing Commission Regarding Use of Probation.**

Directs the Sentencing Commission to amend its guidelines to reflect the amendments made by the Act and the intent of Congress for expanded use of probation and pre-judgment probation for first-time low-level non-violent offenders.

#### **Sec. 304—Establishment of Problem-Solving Court Programs and Creation of Performance Measures.**

Provides for the creation of federal problem-solving court programs if a United States district court and the circuit judicial council jointly recommend its establishment. Mandates that, in establishing and designing problem-solving courts, the Director of the Administrative Office of the Courts shall ensure that all federal problem-solving court programs incorporate the available research and best evidence-based practices in the field.

Provides for periodic evaluations of the success of federal problem-solving court programs by the United States Sentencing Commission and the Government Accountability Office.

Problem-solving court programs may include drug, mental health, veterans', employment, and re-entry court programs.

## **Title IV – Concentrating Prison Space on Violent and Career Offenders**

### ***Subtitle A – Restoring Original Congressional Intent to Focus Federal Drug Mandatory Minimums Only on Managers, Supervisors, Organizers, and Leaders of Drug Trafficking Organizations and to Avoid Duplicative Prosecution with States***

#### **Sec. 401—Focusing the Application of Mandatory Minimums for Certain Drug Offenses to Restore Original Congressional Intent Respecting the Balance of Power Between the Federal Government and the States While Preserving the Availability of Other Federal Drug Charges**

Provides that, for the purposes of the five- and ten-year drug trafficking mandatory minimums, offenders must meet the existing weight thresholds, and, additionally, be designated as a leader or organizer of a drug trafficking organization comprised of 5 or more participants—the specific individuals Congress intended to target when passing these mandatory minimums. None of these amendments affects the ability of federal prosecutors to exponentially increase these mandatory minimum sentences under 851 for subsequent offenses and/or cases in which death or serious bodily injury results. None of these amendments affects the “kingpin” statute in 21 U.S.C. 848, which provides for mandatory minimum sentences of 20 years, 30 years, or life.

For offenders who meet the existing weight thresholds and are employed in drug trafficking organizations of 5 or more participants, they can be sentenced to up to life in prison.

For offenders who do not meet the existing weight thresholds and who are not employed in drug trafficking organizations of 5 or more participants, they can be sentenced to up to life in prison.

For offenders who do not meet the existing weight thresholds, are not employed in a drug trafficking organization or 5 or more participants, and whose role, in comparison to any other participants, qualifies as minor or minimal, they may be eligible for a sentence of under a year but only if all those factors are met and the offender does not present a public safety risk.

Directs the Sentencing Commission to review and amend its guidelines and policy statements to ensure that they are consistent with these amendments.

#### **Sec. 402—Modification of Criteria for “Safety Valve” Limitation on Applicability of Certain Mandatory Minimums**

Broadens eligibility for the existing “safety valve” and the two newly-created “safety valves” to offenders convicted of federal controlled substances offenses, offenses deriving their penalties therefrom, and section 924(c) offenses committed during and in relation to drug trafficking crimes only.

Maintains the existing “safety valve” for drug offenders with one or fewer criminal history points, after any downward departure by the court.

Creates a second “safety valve” for drug offenders who have three or fewer criminal history points, after any downward departure by the court, and no prior convictions for the following kinds of offenses: violent, firearm-related, sex, terrorism, racketeering offense, and conspiring to use and invest illicit drug profits.

Creates a third “safety valve” for drug offenders in extenuating cases in which the defendant’s conduct is substantially related to a history of mental illness, persistent drug abuse or addiction, or cases in which the defendant suffered combat-related trauma, or was a victim of significant physical, mental, psychological, or emotional distress or abuse and directed to commit the offense by another individual who played a significantly greater role.

#### **Sec. 403—Use of Prior Convictions for Mandatory Minimum Sentencing Enhancements**

Amends definition of “felony drug offense” and “felony drug trafficking offense” for the purposes of sentencing enhancements to exclude state or federal offenses for which the maximum term of imprisonment does not exceed one year, the sentence imposed exceeds one year, is not defined by the law of the jurisdiction as a felony, occurred more than ten years prior to the defendant’s current offense but excluding any period during which the defendant was incarcerated, the prosecution was ultimately dismissed, the conviction was later reversed, vacated, or otherwise vitiated by judicial action, including expungement, the defendant was pardoned on the basis of innocence, or the conviction was unconstitutional at the time the conviction occurred or after it became final.

Amends the mandatory minimum life imprisonment penalty for the “three strikes” drug trafficking offense to 35 years.

Clarifies the procedures related to seeking enhanced mandatory minimum penalties for drug trafficking to comport with Due Process requirements.

#### **Sec. 404—Clarification of applicability of the Fair Sentencing Act**

Provides for retroactivity of the Fair Sentencing Act, allowing offenders sentenced under provisions modified by the 2010 Act to petition for resentencing.

#### **Sec. 405—Eligibility for Resentencing**

Provides that previously-sentenced defendants whose term of imprisonment would be reduced had this Act been in effect at time of their sentencing may petition the court for sentence reduction. The court may, but is not required to, reduce the term of imprisonment to be



consistent with the terms of the Act as long as it is consistent with the statutory sentencing factors to be considered, including being in the interest of public safety. In the event the court denies the motion, the offender may refile motions in 5-year increments after the denial to demonstrate his compliance with recidivism-reduction programming and other efforts undertaken to improve the likelihood of successful re-entry.

#### **Sec. 406—Directive to the Sentencing Commission**

Directs the Sentencing Commission to issue policy statements for sentencing courts when considering petitions for resentencing and ensure that the guidelines for maximum terms of imprisonment are consistent with the policies of this Act.

#### ***Subtitle B –Expanding Compassionate Release Eligibility and Availability for Medically Incapacitated, Geriatric, and Offenders Who Have Suffered the Death Or Incapacitation of Their Minor Child’s Primary Caregiver***

#### **Sec. 411—Release to Extended Supervision For Certain Medically Incapacitated, Geriatric, and Offenders Who Have Suffered the Death or Incapacitation of Their Minor Child’s Primary Caregiver**

Provides that petitions for compassionate release may be filed by the defendant or upon the Court’s own motion in addition to the motion of the Director of the Bureau of Prisons.

Amends the existing geriatric release valve to extend eligibility to offenders with documented extraordinary health conditions or those who are 60 or older or those who have suffered the death or incapacitation of their minor child’s primary caregiver.

Eligible inmates, excluding those sentenced for violent, terrorism, or sex offenses, can petition the courts to convert the inmate’s remaining imprisonment sentence to a term of home confinement with electronic monitoring or supervised release. In determining which offenders shall have their sentences modified, the courts shall consider, based upon the offender’s behavior in prison, whether there is a low risk that the offender will commit new crimes upon release.

Provides for victim notification and the potential to provide a victim statement prior to a determination of sentence modification.

#### ***Subtitle C – Clarification of Congressional Intent on Certain Recidivist Penalties***

#### **Sec. 421 – Amendments to Enhanced Penalties Provision**

Clarifies that Section 924(c) mandatory minimum consecutive sentences – or “stacking” – for recidivist offenders apply only to those cases when a conviction occurs after a prior conviction

has already become final, in recognition that the existing imprecise draftsmanship has led to grossly disproportionate mandatory sentences for first-time offenders.

## **Title V – Reducing Recidivism**

### ***Subtitle A – Revision of Statutory Sentence Credits***

#### **Sec. 501—Delivery and Incentives to Complete In-Prison Recidivism Reduction Programming**

Expands the eligibility for and availability of up to 1 year of in-prison programming and incentives to include the residential drug abuse program (RDAP), cognitive-behavioral therapy, provide vocational and occupational training, participation in Federal Prison Industries.

#### **Sec. 502—Post-Sentencing Risk and Needs Assessment System and In-Prison Recidivism Reduction Programming**

Requires the Attorney General, in consultation with the United States Sentencing Commission, to create a standardized risk and needs assessment system to determine the criminogenic risks and needs of all admitted prisoners and assign them accordingly to appropriate recidivism reduction programs or productive activities based upon an individualized case plan. Eligible offenders earn 10 days of sentence reduction credit for every calendar month of successful compliance with the case plan. Offenders who are serving a sentence of imprisonment for homicide, terrorism, or sex offenses are not eligible to earn sentence reduction credit, however they may participate in programming and are eligible to earn other incentives such as additional commissary, telephone, or visitation privileges. Requires the Bureau of Prisons to amend its Inmate Discipline Program to reduce or forfeit in whole or in part earned reduction credits for offenders how violate the rules of the facility and to restore sentence reduction credits that were forfeited.

Requires the Attorney to validate the risk and needs assessment tool no later than 2 years after enactment. Requires the Attorney General to provide training to Bureau of Prisons officials and employees in implementing the system.

Permits the Attorney General to enter into partnerships with non-profit organizations, educational institutions, and private entities to provide recidivism reduction programming on a paid or volunteer basis.

Provides definitions for “case plan,” “criminal risk factors,” “dynamic risk factor,” “eligible prisoner,” “productive activity,” “recidivism reduction program,” “recidivism risk,” “recovery programming,” “release eligibility date,” and “successful compliance.”

### ***Subtitle B – Training and Oversight of Mental Health and Substance Abuse Treatment***

#### **Sec. 511—Mental Health and De-Escalation Training.**

Requires the Attorney General to provide direction to the Bureau of Prisons, federal law enforcement agencies, and other federal criminal justice agencies on training programs on how to de-escalate encounters as well as how to appropriately identify and respond to individuals with mental health issues.

**Sec. 512—Authorizing the Use of Medication-Assisted Treatment for Heroin, Opioid, or Alcohol Abuse in Residential Substance Abuse Treatment**

Authorizes the use of medication-assisted treatment approved by the FDA, in combination with counseling or behavioral therapies, to treat heroin, opioid, or alcohol addiction in residential substance abuse treatment programs.

Requires the Director of the Bureau of Prisons to submit a report within 90 days of the Act’s enactment that evaluates the current pilot program involving medication-assisted treatment to treat heroin and opioid abuse and includes a strategy to expand access to medication-assisted treatment for heroin and opioid abuse for federal prisoners in appropriate cases.

Requires the Director of the Administrative Office of the United States Courts to submit a report assessing the availability of and capacity for the provision of medication-assisted treatment for opioid and heroin abuse among treatment-service providers serving federal offenders under supervised release as well as a description of plans to expand access to medication-assisted treatment that is not subject to diversion for heroin and opioid abuse whenever appropriate among federal offenders under supervised release.

**Sec. 413—Performance-Based Contracting for Residential Reentry Centers**

Requires the Bureau of Prisons to implement performance-based standards, which include a measure of the reduction in recidivism rate of offenders transferred to private providers of Residential Reentry Centers and positive and negative consequences associated with that baseline measure. Requires the Bureau of Prisons to review existing contracts to ensure that they meet these standards prior to contract renewal.

***Subtitle C – Implementing Swift, Certain, and Proportionate Sanctions for Violations of Conditions of Probation or Supervised Release***

**Sec. 521—Graduated Sanctioning System**

Provides that the court may impose graduated sanctions, in lieu of arrest or incarceration, on offenders who have committed a technical violation of their supervision.

To administer a graduated sanction, a probation officer shall serve on the supervisee a notice which includes a description of the violation and the sanction or sanctions to be imposed. If the

supervisee admits to the violation, waives the required hearing, submits to the graduated sanction, the sanction shall be imposed immediately. If the supervisee does not agree, or fails to complete the graduated sanction, then the probation officer may commence judicial revocation proceedings.

Provides definitions for the terms “criminal risk factors,” “evidence-based practices,” “graduated sanctions,” “non-technical violation,” “probation officer,” “probation supervisor,” “sanctioning rid,” “supervisee,” “supervision,” and “technical violation.”

#### **Sec. 522—Graduated Sanctioning System.**

Requires the U.S. Probation and Pretrial Services Office to create a standardized graduated sanctioning system which will be used by probation officers in determining targeted and proportional responses to technical violations of supervision.

The graduated sanctions that a probation officer may impose shall include, but are not limited to, verbal warnings, increased reporting requirements, curfew requirements, electronic monitoring, increased drug and alcohol testing, mental health counseling or treatment, behavioral therapy or anger management, community service, and loss of earned discharge credits (as discussed below in Subtitle D).

Requires the Director of the Administrative Office of the Courts to develop training protocols on graduated sanctions for probation and pretrial employees.

Requires the Sentencing Commission and Judicial Conference to establish performance benchmarks and performance assessments for probation and pretrial officers and accountability audits of their performance.

#### **Sec. 523—Targeted and Proportional Penalties for Revocations of Probation**

Reduces the maximum imprisonment term for a technical violation of probation to 60 days.

Permits the court to sentence the defendant to imprisonment, community confinement home detention, or continue the defendant on probation with the option to impose additional conditions, based upon considerations on the potential disruptive impact on employment and other community obligations.

#### **Sec. 524—Targeted and Proportional Penalties for Revocations of Supervised Release**

Reduces the maximum imprisonment term for a technical violation of supervised release to 60 days.

Permits the court to sentence the defendant to imprisonment, community confinement home detention, or continue the defendant on probation with the option to impose additional conditions, based upon considerations on the potential disruptive impact on employment and other community obligations.

#### ***Subtitle D – Focus Supervision Resources on High-Risk Offenders***

##### **Sec. 531—Earned Discharge Credits for Compliant Supervisees.**

Provides that probation officers shall have the authority to award positive reinforcements to compliant supervisees, including verbal recognition, reduced reporting requirements, and credits for earned discharge.

Provides that offenders who comply successfully with all terms and conditions of supervision for each calendar month earn 30 days of earned discharge credits to be used against the term of supervision. Provides that if an offender commits a violation of supervision during the month, credits shall not be awarded for that month.

Provides that once the combination of time served on supervision and earned discharge credits equals the total period of supervised release ordered as part of the sentence, Probation and Pretrial Services have the authority to petition the court to terminate the period of supervised release.

Provides definitions for the terms “probation officer,” “supervisee,” “supervision,” “termination of supervision,” “terms and conditions of supervision,” and “violation of supervision.”

##### **Sec. 532—Elimination of Mandatory Revocations for Minor Drug Violations.**

Eliminates provisions automatically requiring that specified drug-related violations of supervision, namely possession of a controlled substance and failure of three or more drug tests within a year, result in automatic revocations to prison during the period of supervision. The court may order imprisonment, but may also take other approaches, including ordering substance abuse treatment, if more appropriate.

#### ***Subtitle E – Creating a Performance-Incentive Funding Program***

##### **Sec. 541—Calculation of Savings**

Provides the process by which savings for the purposes of the performance-incentive funding program are calculated.

Requires the Director of the Administrative Office of the Courts to calculate a revocation baseline for each judicial district, capturing the average number of supervisees revoked to

federal prison during calendar years 2012, 2013, and 2014, as well as the average cost to incarcerate a supervisee revoked to prison. Requires, at the conclusion of future calendar years, a calculation as to whether individual judicial districts reduced their revocation rate below their baseline in comparison to the nationwide revocation rate.

#### **Sec. 542—Distribution of Performance Incentive Funding**

Provides the process by which performance incentive funding is distributed to eligible judicial districts. Depending on how the district compares to the national average, a district's revocation reduction incentive payment shall equal the estimated number of supervisees successfully prevented from being sent to prison multiplied by 40 to 45 percent of the costs to the Bureau of Prisons to incarcerate a supervisee revoked to prison.

Additionally, the section sets forth funding grants of 5% of the total savings in states with the highest-performing judicial districts, which are defined as ones that have both not exceeded the national average within the past 3 calendar years and are more than 50 percent below the national average in the most recently completed calendar year.

#### **Sec. 543—Use of Performance Incentive Funding**

Provides the authorized uses of performance incentive funding. Allows district probation offices to use funds, including any accrued interest, to provide supervision and rehabilitative services for supervisees, such as hiring social workers, implementing and expanding evidence-based risk and needs assessments graduated sanctions, substance abuse treatment, mental health treatment, domestic violence victim services, services for veterans, cognitive behavioral therapy, and day reporting centers.

Requires that at least 5% of the funding is used in each judicial district to evaluate the effectiveness of the programs and services implemented or expanded with the funds provided pursuant to this section.

Requires each judicial district's probation office to provide a separate accounting of the performance incentive funds received.

#### **Sec. 544—Definitions**

Provides definitions for the terms "chief judge," "chief probation officer," "community corrections program," "evidence-based practices," "supervisee," "supervision," and "revocation."

## ***Subtitle F – Maximizing Public Safety Returns on Corrections Dollars***

### **Sec. 551—Clarification of Original Congressional Intent Regarding Calculation of Good Time Credit**

Corrects an erroneous agency interpretation by clarifying that the eligible offenders may earn up to 15 percent off their sentence as originally intended by Congress.

### **Sec. 552—Analysis of Fiscal Implications for Inclusion in Pre-Sentence Reports**

Directs Probation and Pretrial Services to include the average annual costs for available sentences when compiling an offender’s Presentence Investigation Report.

Directs the Sentencing Commission to amend its guidelines and policy statements to reflect these amendments and the intent of Congress that an analysis of the fiscal implications of sentencing decisions are included in the presentence report and considered in the imposition of appropriate sentences.

Directs the Judicial Conference to amend the Federal Rules of Criminal Procedure to reflect these amendments and the intent of Congress that an analysis of the fiscal implications of sentencing decisions are included in the presentence report.

### **Sec. 553 – Investing in and Supporting SAFE Law Enforcement**

Sets out Congressional findings on the sacrifices made by, dangers confronting, and unique needs of law enforcement officers.

Authorizes the reprogramming of savings that this legislation generates from reduced correctional spending and reduced duplicative investigative and prosecutorial spending in drug cases to be used to create and expand various efforts and research to promote the safety of law enforcement officers, including: (1) nationwide “blue alert” warning system to enlist the public in finding suspects after an officer is killed in the line of duty; (2) national toll-free mental health hotline specifically for law enforcement officers; (3) mental health and other support services to law enforcement and correctional officers; (4) annual fitness, resilience, nutrition, and mental health check; (5) assistance in negotiating with law enforcement pension plan administrators to recognize “fitness for duty” exams as definitive evidence of valid disability; (6) limiting the total and consecutive hours law enforcement officers should be required to work, including special findings on high-risk or high-stress scenarios; (7) individual tactical first-aid kits containing tourniquets, and Olaes modular bandage, and QuickClot gauze and training in hemorrhage control; (8) anti-ballistic vests and body armor; (9) pepper spray for correctional workers; (10) developing best practices for and funding in-car and body-worn cameras; (11) hiring additional law enforcement and correctional officers; (12) training on community-based



policing; (13) funding to eliminate the DNA backlog; (14) providing funding to state and local law enforcement to enhance the reporting to and usage of the National Incident-Based Reporting System, which collects data on each single incident and arrest on 46 specific crimes that the major ones facing law enforcement today; (15) providing medication-assisted treatment for individuals struggling with heroin, opioid, or alcohol abuse in residential substance abuse treatment programs; (16) providing funding to state and local governments and law enforcement agencies to implement best practices on information and resource parity and innocence protection; (17) counseling and support services for family members of law enforcement officers who are killed in the line of duty; (18) investing research and training in non-lethal tools of policy that provide a greater range of law enforcement response, including to de-escalate situations and reduce deadly uses of force; (19) evidence-based prevention and intervention community programs to youth violence through coordinate prevention and intervention initiatives; (20) hiring social workers and psychiatrists for federal prisons and providing funding to state and local governments to do the same as they are uniquely qualified to address the release preparation needs of inmates; (21) providing funding to state and local law enforcement agencies to provide and expand hiring and retention incentives for officers with undergraduate and graduate degrees; (22) providing funding and training to federal, state, and local law enforcement agencies on community-based policing principles; (23) establishing a national center to advance training, technical assistance and knowledge around mental health issues that occur within the criminal justice system, including providing training and funding for de-escalation techniques, coordination among other government agencies, information-sharing, diversion initiatives, jail and prison strategies, establishment of learning sites, suicide prevention, and assistance and infrastructure for calls for service and law enforcement triage capabilities; (24) providing funding for federal, state, and local law enforcement leaders to attend the FBI National Academy to share best practices and support national coherence on important policing issues in this ever-changing field; (25) developing a task force of federal, state, and local law enforcement leaders to study, recommend, and establish a “near miss project” for every policing incident in which an officer or civilian life is lost or substantial force was used as this would be a structured mechanism to review knowledge gained from past tragedies in order to disseminate it to prevent future ones and to encourage new learning and sustainable, stakeholder-driven change; and (26) developing a task force of federal, state, and local law enforcement leaders to study, recommend, and establish an “officer-involved shooting database” for use when firearms have been used against law enforcement officers and where officers have used firearms against civilians to review knowledge gained from past tragedies to distinguish between actual risk versus perceived risk on the part of the civilian or officer and to develop best practices;

Requires the Department of Justice to provide Congress with an annual accounting of the disbursement of the funds to ensure that the funds are being used to maximize public safety and make needed improvements to the criminal justice system on every level.

Clarifies that funds disbursed are in addition to—not in place of—existing state or local funds or grants.

## **Title VI – Prevention and Intervention Initiatives Increasing Government Transparency and Accountability**

### **Sec. 601—Report on Mandatory Minimums**

Requires the Government Accountability Office to provide a report to Congress on all mandatory minimum penalties enacted, including brief summaries of the conduct prohibited and its usage.

### **Sec. 602—Federal defender representative as a nonvoting member of the U.S. Sentencing Commission.**

Provides for the addition of an ex officio, non-voting federal defender on the Sentencing Commission.

### **Sec. 603—Analysis of Fiscal Implications of Legislative Impacts on the Federal Corrections System.**

Provides, that, prior to a final vote by the Judiciary or Appropriations committees on a bill that amends existing sentencing and corrections policy or creates a new criminal penalty, either committee can require the Attorney General to provide an analysis of the impact of the legislation on the federal agencies affected in the executive and judicial branches.

### **Sec. 604—Reports**

Requires the Attorney General to report to Congress annually: (1) demographic, sentence, and judicial district data by offender; (2) current and projected savings under this Act; and (3) a strategy to reinvest the savings.

Requires the Director of the Bureau of Prisons to report to Congress annually: (1) number of offenders admitted to prison, the offense type, average sentence length by offense type, and recidivism rate by offense type; (2) number of offenders with earned time credit, the average amount of earned time per offender, and efficacy of the recidivism reduction programming at each facility; (3) number of offenders petitioning for compassionate release, the number of petitions granted, and the recidivism rates for those offenders; and (4) the number of offenders held in solitary confinement and the reasons therefor

Requires the Director of the Administrative Office of the Courts to report to Congress annually: (1) number of offenders sentenced to probation, offenders supervised, and offenders who committed technical and non-technical violations; (2) number of offenders sentenced to supervised release, offenders supervised, and offenders who committed technical and non-technical violations; (3) number and percentage of offenders who have committed one or more

violations during the year and the average number of violations per offender during the year; (4) number of offenders eligible for earned discharge credits, the average number of credits earned, and the average length of supervised release served prior to termination due to early discharge credits; and (5) number of participants in problem-solving court programs, number of successful and unsuccessful participants, number of participants re-arrested for a new offense, and number of participants convicted of a new offense.