



U.S. Sentencing Commission
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NEWS RELEASE

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UNITED STATES SENTENCING COMMISSION PROMULGATES AMENDMENT TO IMPLEMENT FAIR SENTENCING ACT OF 2010

Agency Addresses Disparities in Federal Cocaine Sentencing Policy

WASHINGTON, D.C. — Today the United States Sentencing Commission voted to promulgate a temporary, emergency amendment to the federal sentencing guidelines consistent with the statutory changes to crack cocaine and other drug trafficking offenses made by the Fair Sentencing Act of 2010. The amendment will take effect on November 1, 2010.

The Fair Sentencing Act (Act), Pub. L. No. 111-220, signed by the President on August 3, 2010, reduced the statutory penalties for crack cocaine trafficking and eliminated the mandatory minimum sentence for simple possession of crack cocaine. Specifically, the Act reduced the statutory penalties for offenses involving manufacturing or trafficking in crack cocaine by raising the quantity required to trigger a statutory mandatory minimum term of imprisonment — from 5 grams to 28 grams for five-year mandatory minimums and from 50 to 280 grams for ten-year mandatory minimums. The Act also contained directives to the Commission to review and amend the federal sentencing guidelines to account for certain aggravating and mitigating circumstances in drug trafficking cases to better account for offender conduct.

Commission chair, Chief Judge William K. Sessions III (District of Vermont) said, “The Fair Sentencing Act is a momentous piece of bi-partisan legislation. For almost two decades, the Commission has urged Congress to address the disparities in federal cocaine sentencing policy and eliminate the statutory mandatory minimum for simple possession of crack cocaine. The Commission congratulates Congress on passing the Fair Sentencing Act, and it is pleased to implement congressional intent with the promulgation of this temporary, emergency amendment.”

The Commission estimates that the new average sentence for trafficking in crack cocaine will be 101 months, a 13.7 percent decrease in average sentence length. The Commission estimates that more than 1,500 prison beds will be saved after five years and that more than 3,800 beds will be saved after ten years.

Consistent with the directives contained in the Act, the Commission's amendment incorporates a number of additional aggravating and mitigating factors into the federal sentencing guidelines to ensure emphasis on the offender in all drug trafficking cases, not merely on the amount of drug involved in the offense. For example, if the defendant used or threatened the use of violence or bribed (or attempted to bribe) a law enforcement officer, an additional increase is provided. By contrast, if the defendant had a minimal role in the offense and was motivated by fear or an intimate or familial relationship; received no payment, and had minimal knowledge of the offense, a decrease in the overall sentence is provided. The Commission also provided a cap on the sentence a defendant receiving the minimal role adjustment can receive.

The Fair Sentencing Act invoked the Commission's emergency, temporary amendment authority and directed the Commission to promulgate amendments no later than November 1, 2010. The temporary amendment will expire no later than November 1, 2011. The Commission will consider a permanent amendment implementing the Fair Sentencing Act as part of its work during the coming year and will submit such amendment to Congress no later than May 1, 2011.

The United States Sentencing Commission, an independent agency in the judicial branch of the federal government, was organized in 1985 to develop a national sentencing policy for the federal courts. The resulting sentencing guidelines structure the courts' sentencing discretion to help ensure that similar offenders who commit similar offenses receive similar sentences.

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