

Sentence and Prison Impact Estimate Summary
S. 1917, The Sentencing Reform and Corrections Act of 2017
(Data analysis conducted on August 3, 2018)

Section	Summary	Sentencing & Imprisonment Impact
101	Reduce and Restrict Enhanced Sentencing for Prior Drug Felonies (section 851 enhancements) ^{1,2}	Prospective Impact: 56 Offenders Annually; -21.0% Sentence Reduction; Decrease of 0 beds in BOP 5 years after effective date. ¹ Demographics: 96.4% Citizen, 96.4% Male, 30.4% White, 50.0% Black, 17.9% Hispanic, 1.8% Other
		Retroactive Impact: 3,032 eligible offenders were in prison as of May 26, 2018. ² Demographics: 88.8% Citizen, 97.5% Male, 18.8% White, 57.5% Black, 21.8% Hispanic, 1.9% Other
102	Broadening of Existing Safety Valve ³ (to offenders with up to 4 CH points)	Prospective Impact: 2,045 Offenders Annually; -21.8% Sentence Reduction; Decrease of 1,072 beds in BOP 5 years after effective date. ³ Demographics: 78.0% Citizen, 81.7% Male, 26.2% White, 21.9% Black, 48.5% Hispanic, 3.4% Other
		Retroactive Impact: Not authorized in bill.
103	Limitation on Application of the 10-year Mandatory Minimum Penalty for Certain Drug Offenders ⁴	Prospective Impact: 227 Offenders Annually; -33.3% Sentence Reduction; Decrease of 98 beds in BOP 5 years after effective date. ⁴ Demographics: 49.1% Citizen, 90.7% Male, 14.5% White, 8.4% Black, 75.8% Hispanic, 1.3% Other
		Retroactive Impact: Not authorized in bill.
104	Clarification of 18 U.S.C. § 924(c) (regarding second and subsequent convictions for certain offenses involving possession of a firearm) ^{5,6}	Prospective Impact: 57 Offenders Annually; -52.6% Sentence Reduction; Decrease of 0 beds in BOP 5 years after effective date. ⁵ Demographics: 89.5% Citizen, 100.0% Male, 12.3% White, 70.2% Black, 17.5% Hispanic, 0.0% Other
		Retroactive Impact: 731 eligible offenders were in prison as of May 26, 2018. ⁶ Demographics: 89.1% Citizen, 98.6% Male, 24.3% White, 60.9% Black, 12.2% Hispanic, 2.6% Other
105	Retroactive Application of Fair Sentencing Act (to defendants previously sentenced) ⁷	Prospective Impact: n/a
		Retroactive Impact: 2,660 eligible offenders were in prison as of May 26, 2018. ⁷ Demographics: 97.0% Citizen, 98.8% Male, 4.0% White, 89.1% Black, 6.2% Hispanic, 0.7% Other
106	New Mandatory Minimum Sentences for Domestic Violence Offenses	Prospective Impact: 0 Offenders Annually; 0.0% Sentence Increase; Increase of 0 beds in BOP 5 years after effective date.
		Retroactive Impact: n/a
107	New Minimum Term of Imprisonment for Export Control Offenses	Prospective Impact: 94 Offenders Annually; 106.7% Sentence Increase; Increase of 232 beds in BOP 5 years after effective date. Demographics: 58.5% Citizen, 88.3% Male, 14.9% White, 9.6% Black, 70.2% Hispanic, 5.3% Other
		Retroactive Impact: n/a
109	New Statutory Maximum for Fentanyl ⁸	Prospective Impact: 148 Offenders Annually. Sentence and prison impact cannot be estimated. ⁸ Demographics: 87.2% Citizen, 84.5% Male, 31.1% White, 37.8% Black, 30.4% Hispanic, 0.7% Other
202	Recidivism Reduction Programming and Productive Activities	Eligible offenders estimated to be in BOP custody as of May 26, 2018: 73,050
208	“Parole” for Juvenile Offenders ⁹	Offenders estimated to be in BOP custody as of May 26, 2018: 7 Offenders. Sentence and prison impact cannot be estimated. ⁹ Demographics: 100.0% Citizen, 85.7% Male, 0.0% White, 71.4% Black, 28.6% Hispanic, 0.0% Other
209	Compassionate Release Initiative ¹⁰	Offenders estimated to be in BOP custody as of May 26, 2018: 1,882 Offenders. Sentence and prison impact cannot be estimated. ¹⁰ Demographics: 78.0% Citizen, 91.3% Male, 42.8% White, 25.1% Black, 30.2% Hispanic, 1.9% Other

SOURCE: U.S. Sentencing Commission Prison and Sentencing Impact Model using FY2017 Data, USSCFY2017. Impact estimates of individual sections may have also used one or more of the following supplemental datafiles: DRUG851FY2017, preliminary CHFY2017, or FUNCSAMP2016. All retroactive analyses used a datafile from the Bureau of Prisons (BOP) that was matched with

USSCFY1992-USSCFY2017 datafiles to determine which offenders were incarcerated on May 26, 2018 (the date of the most recent BOP data available to the Commission). For more information about sentence and prison impact of these provisions, see the underlying summary tables for each section.

¹ Offenders convicted of a drug trafficking offense carrying a 10-year mandatory minimum penalty which will be enhanced to a 15-year or 25-year mandatory minimum penalty under the bill. There are an additional 305 offenders convicted of a drug trafficking offense carrying a mandatory minimum penalty of 5 years and who had previously been convicted of a serious violent felony but not a serious drug felony, and an additional 230 offenders convicted of a drug trafficking offense carrying a mandatory minimum penalty of 10 years and who had previously been convicted of a serious violent felony but not a serious drug felony, who are eligible to receive an enhanced sentence under this provision. Because the decision to seek an enhanced penalty is within the government's prosecutorial discretion, the Commission is unable to estimate the number of cases in which the government may seek an enhanced sentence for these offenders due to the prior conviction for a serious violent felony.

² Offenders incarcerated as of May 26, 2018 who were convicted of a drug trafficking offense carrying a 10-year mandatory minimum penalty that was enhanced to 20 years or life imprisonment and who did not receive relief from the mandatory minimum penalty at sentencing. Offenders who were sentenced above the current mandatory minimum penalty were assumed to have no change in sentence. The Commission did not collect information about the type of crimes committed by offenders prior to the instant federal offense until fiscal year 2016. Because of this, the Commission cannot apply the limitation in the Senate bill regarding offenders convicted of a serious violent felony. Therefore, the Commission cannot estimate the number of otherwise eligible offenders who would receive a sentence reduction under this provision.

³ Includes offenders who become eligible for a sentence reduction under the sentencing guidelines safety valve provision (USSG §5C1.2), regardless of whether a mandatory minimum penalty applied in the case. As provided in the bill, all 1-point offenses are excluded from consideration towards the four point maximum criminal history point limitation. Offenders with any prior 3-point offense or any prior 2-point violent offense are excluded from eligibility for the safety valve. The estimated reduction in sentence assumes that eligible offenders will receive the two-level reduction in offense level for safety valve eligible offenders under the sentencing guidelines as provided in USSG §2D1.1(b)(17). Offenders who were eligible for safety valve relief under current law were excluded from this analysis. This analysis does not account for the impact of new subsection (g) to 18 U.S.C. § 3553, as added by the bill, regarding offenders who may be eligible for safety valve relief due to the inadequacy of their criminal history. The Commission cannot estimate the number of cases in which the court will grant safety valve relief pursuant to this provision.

⁴ As provided in the bill, eligible offenders must meet requirements similar to those found in the safety valve provision described in 18 U.S.C. § 3553(f) other than the Criminal History Category I limitation. Offenders with a prior criminal conviction for a violent offense or a drug trafficking offense, which was assessed at three criminal history points, were removed from eligibility. Offenders selling to minors or using minors for sales were removed from eligibility. In order to account for the limitation in the bill on the application of this reduction to drug offenders performing specific functions in a criminal enterprise, all offenders were randomly assigned a drug function at the same rate as the Commission found in an analysis of the function of drug trafficking offenders sentenced in fiscal year 2016, and as further discussed in the Commission's 2017 report *Mandatory Minimum Penalties for Drug Offenses in the Federal System*. Offenders assigned the drug function of "Importer/High Level Supplier," "Grower/Manufacturer," or "Wholesaler" were removed from eligibility for the reduced penalty, unless the court found that those offenders otherwise had performed a mitigating role in the offense.

⁵ Offenders convicted of multiple counts of section 924(c) who were sentenced on the same day, but who had no prior conviction under that section, were assumed to be sentenced to consecutive terms of the most serious firearms mandatory minimum penalty (5, 7, or 10 years) for all counts of conviction. Offenders who received relief from these mandatory minimum penalties at sentencing were excluded from this analysis.

⁶ As provided in the bill, offenders sentenced for brandishing or discharging a firearm were excluded from this analysis. The Commission did not collect information about the type of crimes committed by offenders prior to the instant federal offense until fiscal year 2016. Because of this, the Commission cannot apply the limitation in the Senate bill regarding offenders convicted of a serious violent felony. Therefore, the Commission cannot estimate the number of otherwise eligible offenders who would receive a sentence reduction under this provision.

⁷ Offenders incarcerated in the BOP as of May 26, 2018 whose sentencing range would be lower under the current version of USSG §2D1.1 than the version of that guideline in effect on the date they were sentenced. Because the bill does not specify the extent of any sentence reduction under this provision, the Commission is unable to estimate the sentence reduction for these offenders.

⁸ Because the bill does not specify the sentence to be imposed under this provision, the Commission is unable to estimate the sentence or prison impact for this provision.

⁹ These offenders were sentenced before the age of 18, have served at least 20 years of their sentence, and were in BOP custody as of May 26, 2018. Because the bill does not specify the extent of any sentence reduction under this provision, the Commission is unable to estimate the sentence or prison impact for this provision.

¹⁰ These offenders are age 60 or older, have served at least 2/3 of their sentence, and were in BOP custody as of May 26, 2018. The Commission does not have information as to the type of prior crimes committed by incarcerated offenders prior to the instant offense, nor does it have information about the current health of incarcerated offenders. Therefore, the provisions of the section regarding crimes committed prior to the instant federal offense and whether an offender is suffering from a terminal illness are not included in this analysis. Offenders who were eligible for compassionate release under current law were excluded from this analysis. The Commission is unable to estimate the sentence or prison impact for this provision.

U.S. Sentencing Commission

Estimated Effect of Reducing and Restricting Enhanced Sentencing for Prior Drug Felonies¹

Section 101 of S. 1917, The Sentencing Reform and Corrections Act of 2017

Change in Sentences Imposed						
Total Cases²	Affected Cases³	Percent Affected	Current Average Sentence in Affected Cases	New Average Sentence in Affected Cases	Number Of Months Change	Percent Change
189	56	29.6	267	211	-56	-21.0

Change in Sentences Served							
<i>Change in years of incarceration served for offenders sentenced in a single fiscal year⁴</i>							
1st Year	2nd Year	3rd Year	4th Year	5th Year	10th Year	15th Year	Total⁵
0	0	0	0	0	0	-36	-164
<i>Change in total BOP population in future years⁶</i>							
One Year After Effective Date	Two Years After Effective Date	Three Years After Effective Date	Four Years After Effective Date	Five Years After Effective Date			
0	0	0	0	0			

¹ The prison and sentencing impact request estimates the effect of changes to mandatory minimum penalties that are triggered by an information filed by the government under 21 U.S.C. § 851 in drug trafficking offenses. Specifically, the current 20-year mandatory minimum penalty was reduced to 15 years and the current mandatory minimum penalty of life was reduced to 25 years. Cases were identified using data drawn from the 21 U.S.C. § 851 coding project in 2017. This impact does not model any changes to the sentencing guidelines that may result from the change to the mandatory minimum penalty nor does it make any estimate of the potential increase for offenders with a prior serious violent felony and no prior serious drug felony who would now be eligible for an enhanced sentence.

² **Total Cases** are those with a particular sentencing factor being analyzed.

³ **Affected Cases** are those in which the sentence is estimated to change as a result of the sentencing factor being analyzed. Not all cases will change as a result of the application of the sentencing factor being analyzed.

⁴ This table represents the number of prison beds saved each year by a cohort of offenders sentenced in a single year.

⁵ This is the total number of prison beds that will be saved when all offenders who were sentenced in the same year are released from prison.

⁶ This is the annual number of prison beds saved as additional cohorts of offenders who have been sentenced based on the changed sentencing factor enter the Bureau of Prisons.

U.S. Sentencing Commission
Estimated Effect of Broadening of Existing Safety Valve¹
Section 102 of S. 1917, The Sentencing Reform and Corrections Act of 2017

Change in Sentences Imposed

Total Cases²	Affected Cases³	Percent Affected	Current Average Sentence in Affected Cases	New Average Sentence in Affected Cases	Number Of Months Change	Percent Change
2,260	2,045	90.5	55	43	-12	-21.8

Change in Sentences Served

Change in years of incarceration served for offenders sentenced in a single fiscal year⁴

1st Year	2nd Year	3rd Year	4th Year	5th Year	10th Year	15th Year	Total⁵
-101	-128	-304	-340	-199	-43	-13	-1,791

Change in total BOP population in future years⁶

One Year After Effective Date	Two Years After Effective Date	Three Years After Effective Date	Four Years After Effective Date	Five Years After Effective Date
-101	-229	-533	-873	-1,072

¹ The sentence and prison impact estimates the effect of a reduction in sentences for drug trafficking offenders by expanding the eligibility criteria for the safety valve defined in 18 U.S.C. § 3553(f) to offenders with up to four total criminal history points assessed under the federal sentencing guidelines. As provided in the bill, offenders with a prior criminal conviction assessed at three criminal history points were excluded from eligibility. Additionally, offenders with a prior criminal conviction for a violent offense assessed at two criminal history points were excluded from eligibility. This analysis assumes that offenders meeting the safety valve criteria would be sentenced without regard to the otherwise applicable drug mandatory minimum penalty. This analysis also assumes that offenders meeting the eligible criteria would receive a reduction of two levels in their final offense level under USSG §2D1.1 of the sentencing guidelines (and under §§2D1.2, 2D1.5, 2D1.6, 2D1.8, 2D1.10, or 2D1.14 via the cross-reference to §2D1.1). This analysis does not account for the impact of new subsection (g) to 18 U.S.C. § 3553, regarding the inadequacy of criminal history, as added by the bill.

² **Total Cases** are those with a particular sentencing factor being analyzed.

³ **Affected Cases** are those in which the sentence is estimated to change as a result of the sentencing factor being analyzed. Not all cases will change as a result of the application of the sentencing factor being analyzed.

⁴ This table represents the number of prison beds saved each year by a cohort of offenders sentenced in a single year.

⁵ This is the total number of prison beds that will be saved when all offenders who were sentenced in the same year are released from prison.

⁶ This is the annual number of prison beds saved as additional cohorts of offenders who have been sentenced based on the changed sentencing factor enter the Bureau of Prisons.

U.S. Sentencing Commission
Estimated Effect of the Limitation on Application of the 10-Year Mandatory Minimum Penalty
for Certain Drug Offenders¹
Section 103 of S. 1917, The Sentencing Reform and Corrections Act of 2017

Change in Sentences Imposed

Total Cases²	Affected Cases³	Percent Affected	Current Average Sentence in Affected Cases	New Average Sentence in Affected Cases	Number Of Months Change	Percent Change
1,331	227	17.1	120	80	-40	-33.3

Change in Sentences Served

Change in years of incarceration served for offenders sentenced in a single fiscal year⁴

1st Year	2nd Year	3rd Year	4th Year	5th Year	10th Year	15th Year	Total⁵
0	0	0	0	-98	0	-0	-669

Change in total BOP population in future years⁶

One Year After Effective Date	Two Years After Effective Date	Three Years After Effective Date	Four Years After Effective Date	Five Years After Effective Date
0	0	0	0	-98

¹ The prison and sentencing impact estimates the effect of reducing the mandatory minimum penalty for certain drug crimes from 10 years to 5 years. As required by the bill, eligible offenders must meet eligibility requirements similar to those found in the safety valve provision described in 18 U.S.C. § 3553(f) other than the Criminal History Category I limitation. Offenders with a prior criminal conviction for a violent offense or a drug trafficking offense, which was assessed at three criminal history points, were removed from eligibility. Offenders selling to minors or using minors for sales were removed from eligibility. In order to account for the limitation in the bill on the application of this reduction to drug offenders performing specific functions in a criminal enterprise, all offenders were randomly assigned a drug function at the same rate as the Commission found in an analysis of the function of drug trafficking offenders sentenced in 2016, and as further discussed in the Commission's 2017 report *Mandatory Minimum Penalties for Drug Offenses in the Federal System*. As provided in the bill, offenders assigned the drug function of "Importer/High Level Supplier," "Grower/Manufacturer," or "Wholesaler" were removed from eligibility for the reduced penalty, unless the court found that those offenders otherwise had performed a mitigating role in the offense. This impact does not model any changes to the sentencing guidelines that may result from changes to the drug mandatory minimum penalties.

² **Total Cases** are those with a particular sentencing factor being analyzed.

³ **Affected Cases** are those in which the sentence is estimated to change as a result of the sentencing factor being analyzed. Not all cases will change as a result of the application of the sentencing factor being analyzed.

⁴ This table represents the number of prison beds saved each year by a cohort of offenders sentenced in a single year.

⁵ This is the total number of prison beds that will be saved when all offenders who were sentenced in the same year are released from prison.

⁶ This is the annual number of prison beds saved as additional cohorts of offenders who have been sentenced based on the changed sentencing factor enter the Bureau of Prisons.

U.S. Sentencing Commission
Estimated Effect of Clarification of 18 U.S.C. § 924(c)¹
Section 104 of S. 1917, The Sentencing Reform and Corrections Act of 2017

Change in Sentences Imposed

Total Cases²	Affected Cases³	Percent Affected	Current Average Sentence in Affected Cases	New Average Sentence in Affected Cases	Number Of Months Change	Percent Change
103	57	55.3	624	296	-328	-52.6

Change in Sentences Served

Change in years of incarceration served for offenders sentenced in a single fiscal year⁴

1st Year	2nd Year	3rd Year	4th Year	5th Year	10th Year	15th Year	Total⁵
0	0	0	0	0	-4	-20	-748

Change in total BOP population in future years⁶

One Year After Effective Date	Two Years After Effective Date	Three Years After Effective Date	Four Years After Effective Date	Five Years After Effective Date
0	0	0	0	0

¹ The prison and sentencing impact estimates the effect of a reduction in the mandatory minimum penalties imposed on second and subsequent convictions under 18 U.S.C. § 924(c). For offenders convicted of multiple counts of section 924(c) and sentenced on the same day, but who had no prior conviction under that section, the analysis applies the most serious gun mandatory minimum (5, 7, or 10 years) for all counts of conviction. This impact does not model any changes to the sentencing guidelines that may result from the change to the mandatory minimum penalty.

² **Total Cases** are those with a particular sentencing factor being analyzed.

³ **Affected Cases** are those in which the sentence is estimated to change as a result of the sentencing factor being analyzed. Not all cases will change as a result of the application of the sentencing factor being analyzed.

⁴ This table represents the number of prison beds saved each year by a cohort of offenders sentenced in a single year.

⁵ This is the total number of prison beds that will be saved when all offenders who were sentenced in the same year are released from prison.

⁶ This is the annual number of prison beds saved as additional cohorts of offenders who have been sentenced based on the changed sentencing factor enter the Bureau of Prisons.

U.S. Sentencing Commission
Estimated Effect of New Mandatory Minimum Sentences for Domestic Violence Offenses¹
Section 106 of S. 1917, The Sentencing Reform and Corrections Act of 2017

Change in Sentences Imposed						
Total Cases²	Affected Cases³	Percent Affected	Current Average Sentence in Affected Cases	New Average Sentence in Affected Cases	Number Of Months Change	Percent Change
28	0	0.0	90	-	-	-

Change in Sentences Served							
<i>Change in years of incarceration served for offenders sentenced in a single fiscal year⁴</i>							
1st Year	2nd Year	3rd Year	4th Year	5th Year	10th Year	15th Year	Total⁵
0	0	0	0	0	0	0	0
<i>Change in total BOP population in future years⁶</i>							
One Year After Effective Date	Two Years After Effective Date	Three Years After Effective Date	Four Years After Effective Date	Five Years After Effective Date			
0	0	0	0	0			

¹ The prison and sentencing impact estimates the effect of changes to the penalty provisions for domestic violence offenses (18 U.S.C. § 2261). As provided in the bill, a statutory minimum penalty of 10 years was applied in cases with a statutory maximum penalty of life. Additionally, the current 20-year statutory maximum penalty was increased to 25 years and the current 10-year statutory maximum penalty was increased to 15 years. This impact does not model any changes to the sentencing guidelines that may result from the addition of the new mandatory minimum penalty.

² **Total Cases** are those with a particular sentencing factor being analyzed.

³ **Affected Cases** are those in which the sentence is estimated to change as a result of the sentencing factor being analyzed. Not all cases will change as a result of the application of the sentencing factor being analyzed.

⁴ This table represents the number of prison beds saved each year by a cohort of offenders sentenced in a single year.

⁵ This is the total number of prison beds that will be saved when all offenders who were sentenced in the same year are released from prison.

⁶ This is the annual number of prison beds saved as additional cohorts of offenders who have been sentenced based on the changed sentencing factor enter the Bureau of Prisons.

U.S. Sentencing Commission
Estimated Effect of a New Minimum Term of Imprisonment for Export Control Offenses¹
Section 107 of S. 1917, The Sentencing Reform and Corrections Act of 2017

Change in Sentences Imposed						
Total Cases²	Affected Cases³	Percent Affected	Current Average Sentence in Affected Cases	New Average Sentence in Affected Cases	Number Of Months Change	Percent Change
151	94	62.3	30	62	32	106.7

Change in Sentences Served							
<i>Change in years of incarceration served for offenders sentenced in a single fiscal year⁴</i>							
1st Year	2nd Year	3rd Year	4th Year	5th Year	10th Year	15th Year	Total⁵
33	47	73	71	8	0	0	232
<i>Change in total BOP population in future years⁶</i>							
One Year After Effective Date	Two Years After Effective Date	Three Years After Effective Date	Four Years After Effective Date	Five Years After Effective Date			
33	80	153	224	232			

¹ The prison and sentencing impact request specified the creation of a 5-year mandatory minimum penalty for arms export control offenses. This impact does not model any changes to the sentencing guidelines that may result from the addition of the new mandatory minimum penalty. Only cases in which the primary sentencing guideline was USSG §§2M5.1, 2M5.2, or 2M5.3 are included in this impact.

² **Total Cases** are those with a particular sentencing factor being analyzed.

³ **Affected Cases** are those in which the sentence is estimated to change as a result of the sentencing factor being analyzed. Not all cases will change as a result of the application of the sentencing factor being analyzed.

⁴ This table represents the number of prison beds saved each year by a cohort of offenders sentenced in a single year.

⁵ This is the total number of prison beds that will be saved when all offenders who were sentenced in the same year are released from prison.

⁶ This is the annual number of prison beds saved as additional cohorts of offenders who have been sentenced based on the changed sentencing factor enter the Bureau of Prisons.