

**UNITED STATES SENTENCING COMMISSION**

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March 19, 2018

Janani Shankaran  
Analyst  
Natural and Physical Resources Cost Estimates Unit  
Congressional Budget Office  
441 D. Street SW  
Washington, D.C. 20515

Re: S. 1917, the Sentencing Reform and Corrections Act of 2017

Dear Ms. Shankaran:

The Congressional Budget Office has requested the U.S. Sentencing Commission to assist it in its assessment of the budgetary impact of S. 1917, the Sentencing Reform and Corrections Act of 2017, were it to be enacted. Enclosed with this letter is the Commission's estimate of the impact of several sections of this bill on the sentences that would be imposed on federal offenders as well as the impact on the size of the federal prison population.

As you can see on the enclosed, the Commission has estimated the number of offenders who would be affected by each section of the bill for which an estimate was possible. Some of those sections have both prospective and retroactive impacts. For the provisions that have both, the Commission has provided separate estimates of the number of offenders affected. The data used for this analysis was Commission data, however the retroactive analyses were based, in part, on information from the Federal Bureau of Prisons (BOP) as to offenders who were incarcerated as of October 28, 2017.

I wish to call to your attention the following limitations to our estimate.

Section 101. This section of the bill would lower the enhanced mandatory minimum penalties that may apply in certain drug trafficking cases when the offender has been previously convicted of one or more felony drug offenses. Our analysis is based on cases where the government has sought to apply these penalties in the past. However, the bill would also authorize those enhanced penalties to be applied to drug trafficking offenders with a prior conviction for a serious violent felony. Because the decision to seek an enhanced penalty under this provision 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 offenders due to a prior conviction for a serious violent felony.

This section would also authorize courts to apply these penalty changes retroactively for offenders currently incarcerated. The Commission has provided an estimate of the number of offenders who might seek such a sentence reduction. However, the retroactivity provision excludes offenders who were previously convicted of a serious violent felony. Because the Commission does not have detailed criminal history information about offenders currently incarcerated, the Commission cannot apply this limitation, and so cannot estimate the number of otherwise eligible offenders who would receive a sentence reduction under this provision.

Section 102. This section of the bill would broaden the application of the statutory safety valve provision that applies in drug trafficking cases. The Commission has provided an estimate of the number of offenders who would benefit from this provision. However, this section also provides that some additional offenders would also be eligible for this relief, notwithstanding the fact that they did not meet the criminal history requirements for such relief, if the court determines that the offender's criminal history score substantially overrepresents the seriousness of the offender's criminal history or the likelihood that the offender will commit other crimes. The Commission cannot estimate the number of cases in which courts would use this criminal history provision to grant safety valve relief to offenders who do not otherwise meet the statutory requirement for such relief as expanded by this bill.

Section 104. This section of the bill would lower the mandatory minimum penalties that apply for second and subsequent convictions under 18 U.S.C. § 924(c). This section would also authorize courts to apply these penalty changes retroactively for offenders currently incarcerated. The Commission has provided an estimate of the number of offenders who might seek such a sentencing reduction. However, the retroactivity provision excludes offenders who were previously convicted of a serious violent felony. Because the Commission does not have detailed criminal history information about offenders currently incarcerated, the Commission cannot apply this limitation, and so cannot estimate the number of otherwise eligible offenders who would receive a sentence reduction under this provision.

Section 105. This section of the bill would retroactively apply provisions of the Fair Sentencing Act of 2010 to offenders sentenced before enactment of that act. As a result, some offenders whose sentencing range would be lower under the current version of USSG §2D1.1 than it was on the date they were sentenced could seek a modification of their sentence from the sentencing court pursuant to 18 U.S.C. § 3582(c)(2) using the lower amended guideline. The Commission's estimate provides the number of offenders currently incarcerated in the BOP who would be eligible to seek such a sentence modification. The estimated sentence reduction assumes that all eligible offenders would seek and be granted a reduced sentence, which may not prove correct; therefore, this estimate should be viewed as the maximum possible impact of this section.

Section 109. This section of the bill would require courts sentencing offenders convicted of certain offenses involving fentanyl to apply a term of imprisonment not to exceed five years in addition to any other punishment imposed for that offense (i.e., for the trafficking offense itself). The Commission has provided an estimate of the number of cases in which this new penalty would apply. However, because the bill does not specify the additional sentence to be imposed

under this provision, the Commission is unable to estimate the sentence or prison impact for this provision.

Section 202. This section of the bill establishes a post-sentencing risk and needs assessment system through which some offenders would receive “time credits” for their participation in recidivism reduction programs or productive activities. The Commission has provided an estimate of the number of offenders currently incarcerated who would be eligible to receive these time credits in return for their participation in those programs and activities. The Commission cannot estimate the number of such offenders who would choose to participate in those programs and activities or successfully complete them, and so cannot estimate the number of eligible offenders who would receive the time credits described in this provision.

Section 208. This section of the bill provides that courts may reduce the term of imprisonment for offenders who were sentenced for an offense committed before the age of 18, provided the offender has served at least 20 years in custody. 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.

Section 209. This section of the bill would amend current law regarding the release of incarcerated offenders on compassionate release grounds. The Commission’s estimate provides the total number of offenders who would become eligible for compassion release based on the changes made by the bill to current law regarding the minimum age and length of incarceration served by elderly offenders seeking compassionate release. Because the Commission cannot estimate the number of offenders who might be granted compassionate release under this part of section 209, the Commission is unable to estimate the sentence or prison impact of this part of section 209.

This section of the bill also authorizes compassionate release for certain terminally ill offenders who are not incarcerated for any of a list of specific crimes. The Commission does not have information as to current health of incarcerated offenders; therefore, the Commission is unable to estimate the number of offenders who would be eligible for compassionate release under this part of section 209 or the sentence or prison impact of this part of section 209.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn R. Schmitt", written in a cursive style.

Glenn R. Schmitt  
Director  
Office of Research and Data

**Sentence and Prison Impact Estimate Summary**  
**S. 1917, The Sentencing Reform and Corrections Act of 2017**  
**(as of March 19, 2018)**

<b>Section</b>	<b>Summary</b>	<b>Sentencing &amp; Imprisonment Impact</b>
101	Reduce and Restrict Enhanced Sentencing for Prior Drug Felonies (section 851 enhancements) <sup>1, 2</sup>	<b>Prospective Impact:</b> <u>60</u> Offenders Annually; <u>-22.1%</u> Sentence Reduction; Decrease of <u>0</u> beds in BOP 5 years after effective date. <sup>1</sup>
		<b>Retroactive Impact:</b> <u>3,095</u> eligible offenders were still in prison as of October 28, 2017. <sup>2</sup>
102	Broadening of Existing Safety Valve <sup>3</sup> (to offenders with up to 4 CH points)	<b>Prospective Impact:</b> <u>2,141</u> Offenders Annually; <u>-23.1%</u> Sentence Reduction; Decrease of <u>1,160</u> beds in BOP 5 years after effective date.
		<b>Retroactive Impact:</b> Not authorized in bill
103	Limitation on Application of the 10-year Mandatory Minimum Penalty for Certain Drug Offenders <sup>4</sup>	<b>Prospective Impact:</b> <u>207</u> Offenders Annually; <u>-34.2%</u> Sentence Reduction; Decrease of <u>85</u> beds in BOP 5 years after effective date.
		<b>Retroactive Impact:</b> 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) <sup>5, 6</sup>	<b>Prospective Impact:</b> <u>61</u> Offenders Annually; <u>-49.9%</u> Sentence Reduction; Decrease of <u>0</u> beds in BOP 5 years after effective date. <sup>5</sup>
		<b>Retroactive Impact:</b> <u>721</u> eligible offenders were still in prison as of October 28, 2017. <sup>6</sup>
105	Application of Fair Sentencing Act (to defendants previously sentenced) <sup>7</sup>	<b>Prospective Impact:</b> n/a
		<b>Retroactive Impact:</b> <u>3,147</u> eligible offenders were still in prison as of October 28, 2017. <u>-28.2%</u> Sentence Reduction; Decrease in incarceration of 13,170 bed-years.
106	New Mandatory Minimum Sentences for Domestic Violence Offenses	<b>Prospective Impact:</b> <u>0</u> Offenders Annually; <u>0.0%</u> Sentence Increase; Increase of <u>0</u> beds in BOP 5 years after effective date.
		<b>Retrospective Impact:</b> n/a
107	New Minimum Term of Imprisonment for Export Control Offenses	<b>Prospective Impact:</b> <u>72</u> Offenders Annually; <u>130.8%</u> Sentence Increase; Increase of <u>176</u> beds in BOP 5 years after effective date.
		<b>Retroactive Impact:</b> n/a
109	New Statutory Enhancement for Fentanyl <sup>8</sup>	<b>Prospective Impact:</b> <u>106</u> Offenders Annually. Sentence and prison impact cannot be estimated.
202	Recidivism Reduction Programming and Productive Activities	<b>Eligible offenders estimated to be in BOP custody as of October 28, 2017:</b> <u>75,133</u>
208	“Parole” for Juvenile Offenders <sup>9</sup>	<b>Offenders estimated to be in BOP custody as of October 28, 2017:</b> <u>7</u> Offenders. Sentence and prison impact cannot be estimated.
209	Compassionate Release Initiative <sup>10</sup>	<b>Offenders estimated to be in BOP custody as of October 28, 2017:</b> <u>1,174</u> Offenders. Sentence and prison impact cannot be estimated.

SOURCE: U.S. Sentencing Commission Prison and Sentencing Impact Model using FY2016 Data, USSCFY2016. Impact estimates of individual sections may have also used one or more of the following supplemental datafiles: DRUG851FY2016, CHFY2016, or FUNCSAMP2016. All retroactive analyses used a datafile from the Bureau of Prisons (BOP) that was matched with USSCFY1992-USSCFY2016 datafiles to determine which

offenders were incarcerated on October 28, 2017. For more information about the sentence and prison impact of these provisions, see the underlying summary tables for each section.

<sup>1</sup> Offenders convicted of a drug trafficking offense carrying a 10-year mandatory minimum sentence which will be enhanced to a 15-year or 25-year mandatory minimum penalty under the bill. There are an additional 275 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 203 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.

<sup>2</sup> Offenders incarcerated as of October 28, 2017 who were convicted of a drug trafficking offense carrying a 10-year mandatory minimum sentence 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.

<sup>3</sup> 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, because the Commission cannot estimate the number of cases in which the court will grant safety valve relief pursuant to this provision.

<sup>4</sup> 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.

<sup>5</sup> Offenders convicted of multiple counts of section 924(c) which 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 gun 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.

<sup>6</sup> 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.

<sup>7</sup> Offenders incarcerated in the BOP as of October 28, 2017 whose sentencing range would be lower under the current version of USSG §2D1.1 than as in effect on the date they were sentenced. For this analysis, the Commission assumes that all eligible offenders would receive a sentence reduction under 18 U.S.C. § 3582(c)(2).

<sup>8</sup> 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.

<sup>9</sup> 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 October 28, 2017. 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.

<sup>10</sup> These offenders are age 60 or older, have served at least 2/3 of their sentence, and were in BOP custody as of October 28, 2017. 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. The Commission does not have information as to the current health of incarcerated offenders. Therefore, the part of this section regarding terminally ill offenders is not included in this analysis.

# U.S. Sentencing Commission

## Estimated Effect of Reducing and Restricting Enhanced Sentencing for Prior Drug Felonies<sup>1</sup>

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

<b>Change in Sentences Imposed</b>						
<b>Total Cases<sup>2</sup></b>	<b>Affected Cases<sup>3</sup></b>	<b>Percent Affected</b>	<b>Current Average Sentence in Affected Cases</b>	<b>New Average Sentence in Affected Cases</b>	<b>Number Of Months Change</b>	<b>Percent Change</b>
234	60	25.6	258	201	-57	-22.1

<b>Change in Sentences Served</b>							
<i>Change in years of incarceration served for offenders sentenced in a single fiscal year<sup>4</sup></i>							
<b>1<sup>st</sup> Year</b>	<b>2<sup>nd</sup> Year</b>	<b>3<sup>rd</sup> Year</b>	<b>4<sup>th</sup> Year</b>	<b>5<sup>th</sup> Year</b>	<b>10<sup>th</sup> Year</b>	<b>15<sup>th</sup> Year</b>	<b>Total<sup>5</sup></b>
0	0	0	0	0	0	-42	-218
<i>Change in total BOP population in future years<sup>6</sup></i>							
<b>One Year After Effective Date</b>	<b>Two Years After Effective Date</b>	<b>Three Years After Effective Date</b>	<b>Four Years After Effective Date</b>	<b>Five Years After Effective Date</b>			
0	0	0	0	0			

<sup>1</sup> 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 2016. 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.

<sup>2</sup> **Total Cases** are those with a particular sentencing factor being analyzed.

<sup>3</sup> **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.

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

<sup>5</sup> 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.

<sup>6</sup> 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 Valve<sup>1</sup>**  
Section 102 of S. 1917, The Sentencing Reform and Corrections Act of 2017

**Change in Sentences Imposed**

<b>Total Cases<sup>2</sup></b>	<b>Affected Cases<sup>3</sup></b>	<b>Percent Affected</b>	<b>Current Average Sentence in Affected Cases</b>	<b>New Average Sentence in Affected Cases</b>	<b>Number Of Months Change</b>	<b>Percent Change</b>
2,346	2,141	91.3	52	40	-12	-23.1

**Change in Sentences Served**

*Change in years of incarceration served for offenders sentenced in a single fiscal year<sup>4</sup>*

<b>1<sup>st</sup> Year</b>	<b>2<sup>nd</sup> Year</b>	<b>3<sup>rd</sup> Year</b>	<b>4<sup>th</sup> Year</b>	<b>5<sup>th</sup> Year</b>	<b>10<sup>th</sup> Year</b>	<b>15<sup>th</sup> Year</b>	<b>Total<sup>5</sup></b>
-113	-137	-343	-390	-177	-31	-9	-1,848

*Change in total BOP population in future years<sup>6</sup>*

<b>One Year After Effective Date</b>	<b>Two Years After Effective Date</b>	<b>Three Years After Effective Date</b>	<b>Four Years After Effective Date</b>	<b>Five Years After Effective Date</b>
-113	-250	-593	-983	-1,160

<sup>1</sup> 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.

<sup>2</sup> **Total Cases** are those with a particular sentencing factor being analyzed.

<sup>3</sup> **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.

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

<sup>5</sup> 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.

<sup>6</sup> 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 Offenders<sup>1</sup>**  
**Section 103 of S. 1917, The Sentencing Reform and Corrections Act of 2017**

<b>Change in Sentences Imposed</b>						
<b>Total Cases<sup>2</sup></b>	<b>Affected Cases<sup>3</sup></b>	<b>Percent Affected</b>	<b>Current Average Sentence in Affected Cases</b>	<b>New Average Sentence in Affected Cases</b>	<b>Number Of Months Change</b>	<b>Percent Change</b>
1,282	207	16.1	120	79	-41	-34.2

<b>Change in Sentences Served</b>							
<i>Change in years of incarceration served for offenders sentenced in a single fiscal year<sup>4</sup></i>							
<b>1<sup>st</sup> Year</b>	<b>2<sup>nd</sup> Year</b>	<b>3<sup>rd</sup> Year</b>	<b>4<sup>th</sup> Year</b>	<b>5<sup>th</sup> Year</b>	<b>10<sup>th</sup> Year</b>	<b>15<sup>th</sup> Year</b>	<b>Total<sup>5</sup></b>
0	0	0	-1	-84	0	-0	-615
<i>Change in total BOP population in future years<sup>6</sup></i>							
<b>One Year After Effective Date</b>	<b>Two Years After Effective Date</b>	<b>Three Years After Effective Date</b>	<b>Four Years After Effective Date</b>	<b>Five Years After Effective Date</b>			
0	0	0	-1	-85			

<sup>1</sup> 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.

<sup>2</sup> **Total Cases** are those with a particular sentencing factor being analyzed.

<sup>3</sup> **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.

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

<sup>5</sup> 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.

<sup>6</sup> 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)<sup>1</sup>**  
Section 104 of S. 1917, The Sentencing Reform and Corrections Act of 2017

**Change in Sentences Imposed**

<b>Total Cases<sup>2</sup></b>	<b>Affected Cases<sup>3</sup></b>	<b>Percent Affected</b>	<b>Current Average Sentence in Affected Cases</b>	<b>New Average Sentence in Affected Cases</b>	<b>Number Of Months Change</b>	<b>Percent Change</b>
123	61	49.6	668	335	-333	-49.9

**Change in Sentences Served**

*Change in years of incarceration served for offenders sentenced in a single fiscal year<sup>4</sup>*

<b>1<sup>st</sup> Year</b>	<b>2<sup>nd</sup> Year</b>	<b>3<sup>rd</sup> Year</b>	<b>4<sup>th</sup> Year</b>	<b>5<sup>th</sup> Year</b>	<b>10<sup>th</sup> Year</b>	<b>15<sup>th</sup> Year</b>	<b>Total<sup>5</sup></b>
0	0	0	0	0	-2	-13	-797

*Change in total BOP population in future years<sup>6</sup>*

<b>One Year After Effective Date</b>	<b>Two Years After Effective Date</b>	<b>Three Years After Effective Date</b>	<b>Four Years After Effective Date</b>	<b>Five Years After Effective Date</b>
0	0	0	0	0

<sup>1</sup> 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.

<sup>2</sup> **Total Cases** are those with a particular sentencing factor being analyzed.

<sup>3</sup> **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.

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

<sup>5</sup> 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.

<sup>6</sup> 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 Offenses<sup>1</sup>**  
 Section 106 of S. 1917, The Sentencing Reform and Corrections Act of 2017

<b>Change in Sentences Imposed</b>						
<b>Total Cases<sup>2</sup></b>	<b>Affected Cases<sup>3</sup></b>	<b>Percent Affected</b>	<b>Current Average Sentence in Affected Cases</b>	<b>New Average Sentence in Affected Cases</b>	<b>Number Of Months Change</b>	<b>Percent Change</b>
37	0	0.0	87	-	-	-

<b>Change in Sentences Served</b>							
<i>Change in years of incarceration served for offenders sentenced in a single fiscal year<sup>4</sup></i>							
<b>1<sup>st</sup> Year</b>	<b>2<sup>nd</sup> Year</b>	<b>3<sup>rd</sup> Year</b>	<b>4<sup>th</sup> Year</b>	<b>5<sup>th</sup> Year</b>	<b>10<sup>th</sup> Year</b>	<b>15<sup>th</sup> Year</b>	<b>Total<sup>5</sup></b>
0	0	0	0	0	0	0	0
<i>Change in total BOP population in future years<sup>6</sup></i>							
<b>One Year After Effective Date</b>	<b>Two Years After Effective Date</b>	<b>Three Years After Effective Date</b>	<b>Four Years After Effective Date</b>	<b>Five Years After Effective Date</b>			
0	0	0	0	0			

<sup>1</sup> 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.

<sup>2</sup> **Total Cases** are those with a particular sentencing factor being analyzed.

<sup>3</sup> **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.

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

<sup>5</sup> 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.

<sup>6</sup> 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 Offenses<sup>1</sup>**  
 Section 107 of S. 1917, The Sentencing Reform and Corrections Act of 2017

<b>Change in Sentences Imposed</b>						
<b>Total Cases<sup>2</sup></b>	<b>Affected Cases<sup>3</sup></b>	<b>Percent Affected</b>	<b>Current Average Sentence in Affected Cases</b>	<b>New Average Sentence in Affected Cases</b>	<b>Number Of Months Change</b>	<b>Percent Change</b>
131	72	55.0	26	60	34	130.8

<b>Change in Sentences Served</b>							
<i>Change in years of incarceration served for offenders sentenced in a single fiscal year<sup>4</sup></i>							
<b>1<sup>st</sup> Year</b>	<b>2<sup>nd</sup> Year</b>	<b>3<sup>rd</sup> Year</b>	<b>4<sup>th</sup> Year</b>	<b>5<sup>th</sup> Year</b>	<b>10<sup>th</sup> Year</b>	<b>15<sup>th</sup> Year</b>	<b>Total<sup>5</sup></b>
22	35	54	57	8	0	0	176
<i>Change in total BOP population in future years<sup>6</sup></i>							
<b>One Year After Effective Date</b>	<b>Two Years After Effective Date</b>	<b>Three Years After Effective Date</b>	<b>Four Years After Effective Date</b>	<b>Five Years After Effective Date</b>			
22	57	111	168	176			

<sup>1</sup> 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.

<sup>2</sup> **Total Cases** are those with a particular sentencing factor being analyzed.

<sup>3</sup> **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.

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

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