

118TH CONGRESS
1ST SESSION

S. 522

To establish appropriate penalties for cocaine-related offenses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2023

Mr. GRASSLEY (for himself, Mr. LEE, Mr. WICKER, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish appropriate penalties for cocaine-related offenses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Start Making Adjust-
5 ments and Require Transparency in Cocaine Sentencing
6 Act” or the “SMART Cocaine Sentencing Act”.

7 **SEC. 2. PENALTIES FOR COCAINE-RELATED OFFENSES.**

8 (a) IN GENERAL.—

1 (1) CONTROLLED SUBSTANCES ACT.—Section
2 401(b)(1) of the Controlled Substances Act (21
3 U.S.C. 841(b)(1)) is amended—

4 (A) in subparagraph (A)—

5 (i) in clause (ii), in the matter pre-
6 ceding subclause (I), by striking “5 kilo-
7 grams” and inserting “4 kilograms”; and

8 (ii) in clause (iii), by striking “280
9 grams” and inserting “1,600 grams”; and

10 (B) in subparagraph (B)—

11 (i) in clause (ii), in the matter pre-
12 ceding subclause (I), by striking “500
13 grams” and inserting “400 grams”; and

14 (ii) in clause (iii), by striking “28
15 grams” and inserting “160 grams”.

16 (2) CONTROLLED SUBSTANCES IMPORT AND
17 EXPORT ACT.—Section 1010(b) of the Controlled
18 Substances Import and Export Act (21 U.S.C.
19 960(b)) is amended—

20 (A) in paragraph (1)—

21 (i) in subparagraph (B), in the matter
22 preceding clause (i), by striking “5 kilo-
23 grams” and inserting “4 kilograms”;

1 (ii) in subparagraph (C), by striking
2 “280 grams” and inserting “1,600
3 grams”; and

4 (iii) in subparagraph (H), by striking
5 the period at the end and inserting a semi-
6 colon; and

7 (B) in paragraph (2)—

8 (i) in subparagraph (B), in the matter
9 preceding clause (i), by striking “500
10 grams” and inserting “400 grams”;

11 (ii) in subparagraph (C), by striking
12 “28 grams” and inserting “160 grams”;
13 and

14 (iii) in subparagraph (H), by striking
15 the period at the end and inserting a semi-
16 colon.

17 (b) ATTORNEY GENERAL CERTIFICATION.—

18 (1) IN GENERAL.—For a defendant sentenced
19 before the date of enactment of this Act, the Attor-
20 ney General shall submit to the court that sentenced
21 the defendant a certification regarding whether, in
22 the opinion of the Attorney General, the sentence of
23 the defendant should be reduced, as if the amend-
24 ments made by subsection (a) were in effect at the
25 time the offense was committed. In making a certifi-

1 cation under this paragraph, the Attorney General
2 shall consider the factors in section 3553(a) of title
3 18, United States Code.

4 (2) RESENTENCING.—If the Attorney General
5 submits a certification under paragraph (1) indi-
6 cating that, in the opinion of the Attorney General,
7 the sentence of the defendant should be reduced, as
8 if the amendments made by subsection (a) were in
9 effect at the time the offense was committed, the
10 court that imposed the sentence of the defendant
11 may impose such a reduced sentence.

12 **SEC. 3. FEDERAL RESEARCH.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of enactment of this Act, the Attorney General, in
15 coordination with the Administrator of the Drug Enforce-
16 ment Administration and the Secretary of Health and
17 Human Services, shall review and submit to the Com-
18 mittee on the Judiciary and the Committee on Health,
19 Education, Labor, and Pensions of the Senate and the
20 Committee on the Judiciary and the Committee on Energy
21 and Commerce of the House of Representatives a report
22 on—

23 (1) the average individual dosage amount of
24 both powder cocaine and cocaine base;

1 (2) the lethality of both powder cocaine and co-
2 caine base as measured by individual dosage;

3 (3) the impact on lethality that polysubstance
4 use, specifically as to synthetic drugs such as
5 fentanyl and fentanyl-related substances, has on
6 both powder cocaine and cocaine base users;

7 (4) the addictiveness of both powder cocaine
8 and cocaine base;

9 (5) the violence attributed to or associated with
10 both powder cocaine and cocaine base, which may in-
11 clude but is not limited to, criminal charges, statu-
12 tory enhancements, criminal history, and recidivism
13 data; and

14 (6) the impact on addictiveness that
15 polysubstance use, specifically as to synthetic drugs
16 such as fentanyl and fentanyl-related substances,
17 has on both powder cocaine and cocaine base users.

18 (b) REPORT BY UNITED STATES SENTENCING COM-
19 MISSION.—

20 (1) IN GENERAL.—Not later than 1 year after
21 the date of enactment of this Act, the United States
22 Sentencing Commission shall submit to Congress
23 and publicly issue a report regarding cocaine of-
24 fenses and offenders.

1 (2) CONTENTS.—The report under paragraph

2 (1) shall include—

3 (A) an analysis of data available to the
4 Commission on Federal cocaine offenses and of-
5 fenders;

6 (B) an updated description of the forms of
7 cocaine, methods of use, effects, dependency po-
8 tential, effects of prenatal exposure, and preva-
9 lence of cocaine use;

10 (C) an updated description of trends in co-
11 caine trafficking patterns, price, and use;

12 (D) a review of State sentencing policies
13 and an examination of the interaction of State
14 penalties with Federal prosecutorial decisions;

15 (E) a review of recent Federal case law de-
16 velopments relating to Federal cocaine sen-
17 tencing; and

18 (F) recommendations to Congress.

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