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S. 5396

To enable incarcerated persons to petition a Federal court for a second look at sentences longer than 10 years, where the person is not a danger to the safety of any person or the community and has shown they are ready for reentry, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2024

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To enable incarcerated persons to petition a Federal court for a second look at sentences longer than 10 years, where the person is not a danger to the safety of any person or the community and has shown they are ready for reentry, 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 “Second Look Act of
5 2024”.

1 **SEC. 2. FINDINGS.**

2 (a) FINDINGS RELATED TO THE UNITED STATES
3 CRIMINAL JUSTICE SYSTEM.—Congress finds the fol-
4 lowing:

5 (1) Although the United States has less than 5
6 percent of the world's population, the United States
7 holds approximately 19 percent of the world's incar-
8 cerated population and has one of the highest rates
9 of incarceration in the world, with more than
10 1,800,000 people incarcerated in State and Federal
11 prisons and local jails.

12 (2) The jail and prison population of the United
13 States has increased by more than 500 percent over
14 a 40-year period preceding the date of enactment of
15 this Act.

16 (3) The United States incarcerates citizens of
17 the United States at 3 to 8 times the rate of other
18 industrialized nations.

19 (4) The face of incarceration in the United
20 States is not exclusively male. Although less than 5
21 percent of women in the world live in the United
22 States, the United States houses nearly 30 percent
23 of the world's incarcerated women and girls.

24 (5) The growth of the incarceration of women
25 in the United States has outpaced that of men by
26 nearly 2-to-1, growing more than 585 percent be-

1 tween 1980 and 2022. Fifty-eight percent of incar-
2 cerated women are mothers of minor children and
3 most are the primary caretakers for their children.

4 (6) The overall prison population of the United
5 States peaked in 2009 and declined at an average
6 annual rate of 2.3 percent during the subsequent 12
7 years. At this pace, it would take until 2098, or 73
8 years, to return to the prison population of 1972,
9 before the era of mass incarceration.

10 (7) In 2020, the prison population declined by
11 15 percent in response to safety precautions related
12 to the COVID–19 pandemic, but most State prison
13 populations, as well as the Federal prison popu-
14 lation, have since bounced back up.

15 (8) Nearly 45 percent of the United States
16 Federal prison population in 2024 is incarcerated
17 for a drug trafficking offense.

18 (b) FINDINGS RELATED TO THE NEED FOR A SEC-
19 OND LOOK.—Congress finds the following:

20 (1) A second look at the sentences for incarcer-
21 ated individuals is needed.

22 (2) Life sentences of imprisonment and long
23 sentences without the possibility of review violate
24 human rights standards.

1 (3) One out of 7 incarcerated individuals is cur-
2 rently serving a life sentence or a virtual life sen-
3 tence of 50 years or longer. More than 25 percent
4 of those individuals are sentenced to life without pa-
5 role. One out of every 15 women in prison, or nearly
6 7,000 women, is serving a life sentence or virtual life
7 sentence.

8 (4) In 2020, 147,920 people were serving a life
9 sentence or virtual life sentence in the United
10 States, and 55,945 people were serving a sentence of
11 life without parole, compared to a total of 63 people
12 serving a life sentence without the possibility of re-
13 lease in the United Kingdom.

14 (5) Mandatory minimum penalties continue to
15 result in long sentences in the Federal prison sys-
16 tem, and—

17 (A) as of 2016, 56 percent of the Federal
18 prison population had been sentenced under a
19 mandatory minimum provision;

20 (B) during fiscal years 2016 through
21 2021, nearly 25 percent of Federal prisoners
22 sentenced to life or virtual life sentences were
23 convicted of nonviolent crimes and 23 percent
24 were convicted of drug trafficking offenses; and

1 (C) in 2023, the average sentence length
2 for individuals who were subject to a mandatory
3 minimum penalty was 12.5 years of imprison-
4 ment.

5 (6) Among those individuals serving life sen-
6 tences for drug-related convictions, 38 percent are in
7 the Federal system.

8 (7) The United States has much more punitive
9 sentencing laws than the rest of the world, as—

10 (A) sentence lengths in most European
11 countries rarely exceed 20 years;

12 (B) Norway abolished life sentences in
13 1981, and under Norwegian law, the maximum
14 prison term is 21 years;

15 (C) in Denmark and Sweden, individuals
16 serving life sentences can be released after 12
17 years and 18 years of imprisonment, respec-
18 tively; and

19 (D) in Latin America, only 6 out of 19
20 countries maintain statutes that allow life im-
21 prisonment.

22 (8) With the abolition of parole under the Sen-
23 tencing Reform Act of 1984 (Public Law 98–473;
24 98 Stat. 1987), there are extremely limited options

1 for review of Federal sentences, which differs greatly
2 from the rest of the world, as—

3 (A) Belgium requires a parole review of life
4 sentences after 10 years;

5 (B) Germany requires a parole review of
6 life sentences after 15 years; and

7 (C) the International Criminal Court re-
8 quires a parole review of life sentences after 25
9 years.

10 (9) An incarcerated individual should not be
11 precluded from receiving a second look review of
12 their sentence because of the nature of the crime for
13 which the individual was convicted, as—

14 (A) individuals tend to age out of criminal
15 activity starting around 25 years of age;

16 (B) released individuals over the age of 50
17 have a very low recidivism rate;

18 (C) several studies, State policies and pro-
19 grams, and the National Institute of Correc-
20 tions of the Bureau of Prisons consider incar-
21 cerated individuals aged 50 and above to be el-
22 derly;

23 (D) incarcerated people age at an acceler-
24 ated rate because they are more likely than the
25 general public to experience stresses including

1 long histories of alcohol and drug misuse, insuf-
2 ficient diet, lack of medical care, financial
3 struggles, and stress of maintaining safety
4 while behind bars;

5 (E) the Office of the Inspector General of
6 the Department of Justice has found that
7 “aging inmates commit less misconduct while
8 incarcerated and have a lower rate of re-arrest
9 once released” and has recommended the early
10 release of aging inmates to help manage the in-
11 mate population and reduce costs at the Bureau
12 of Prisons;

13 (F) the cost to State taxpayers to incar-
14 cerate the approximately 250,000 individuals
15 aged 50 or older behind bars as of the date of
16 enactment of this Act is approximately
17 \$16,000,000,000 each year;

18 (G) incarceration of individuals beyond the
19 age during which the individuals are likely to
20 commit crime is a drain on taxpayer dollars
21 that does nothing to increase public safety;

22 (H) the American Law Institute, the
23 American Bar Association, the Task Force on
24 Long Sentences of the Council on Criminal Jus-
25 tice, and the National Academy of Sciences rec-

1 commend the enactment of resentencing oppor-
 2 tunities for individuals serving long sentences;

3 (I) individuals are capable of redemption;
 4 and

5 (J) in the words of Bryan Stevenson,
 6 “each of us is more than the worst thing we’ve
 7 ever done”.

8 **SEC. 3. MODIFICATION OF CERTAIN TERMS OF IMPRISON-**
 9 **MENT.**

10 (a) IN GENERAL.—Subchapter C of chapter 229 of
 11 title 18, United States Code, is amended by inserting after
 12 section 3626 the following:

13 **“SEC. 3627. MODIFICATION OF CERTAIN TERMS OF IMPRIS-**
 14 **ONMENT.**

15 “(a) IN GENERAL.—Notwithstanding any other pro-
 16 vision of law, a court may reduce a term of imprisonment
 17 imposed upon a defendant if—

18 “(1) the imposed term of imprisonment was
 19 more than 10 years;

20 “(2) the defendant has served not less than 10
 21 years in custody for the offense; and

22 “(3) the court finds, after considering the fac-
 23 tors set forth in subsection (c), that—

24 “(A) the defendant—

1 “(i) is not a danger to the safety of
2 any person or the community; and

3 “(ii) demonstrates readiness for re-
4 entry; and

5 “(B) the interests of justice warrant a sen-
6 tence modification.

7 “(b) SUPERVISED RELEASE.—

8 “(1) IN GENERAL.—Any defendant whose sen-
9 tence is reduced pursuant to subsection (a), shall be
10 ordered to serve—

11 “(A) the term of supervised release in-
12 cluded as part of the original sentence imposed
13 on the defendant; or

14 “(B) in the case of a defendant whose
15 original sentence did not include a term of su-
16 pervised release, a term of supervised release
17 not to exceed the authorized terms of super-
18 vised release described in section 3583.

19 “(2) CONDITIONS OF SUPERVISED RELEASE.—

20 The conditions of supervised release and any modi-
21 fication or revocation of the term of supervised re-
22 lease shall be in accordance with section 3583.

23 “(c) FACTORS AND INFORMATION TO BE CONSID-
24 ERED IN DETERMINING WHETHER TO MODIFY A TERM
25 OF IMPRISONMENT.—

1 “(1) IN GENERAL.—The court, in determining
2 whether to reduce a term of imprisonment pursuant
3 to subsection (a)—

4 “(A) may consider the factors described in
5 section 3553(a), including the nature of the of-
6 fense and the history and characteristics of the
7 defendant; and

8 “(B) shall consider—

9 “(i) the age of the defendant at the
10 time of the offense;

11 “(ii) the age of the defendant at the
12 time of the sentence modification petition
13 and relevant data regarding the decline in
14 criminality as the age of a defendant in-
15 creases;

16 “(iii) any presentation of argument
17 and evidence by counsel for the defendant;

18 “(iv) a report and recommendation of
19 the Bureau of Prisons, including informa-
20 tion on whether the defendant has substan-
21 tially complied with the rules of each insti-
22 tution in which the defendant has been
23 confined and whether the defendant has
24 completed any educational, vocational, or
25 other prison program, where available;

1 “(v) any report and recommendation
2 of the United States attorney for any dis-
3 trict in which an offense for which the de-
4 fendant is imprisoned was prosecuted;

5 “(vi) whether the defendant has dem-
6 onstrated maturity, rehabilitation, and a
7 fitness to reenter society sufficient to jus-
8 tify a sentence reduction;

9 “(vii) any statement, which may be
10 presented orally or otherwise, by any vic-
11 tim of an offense for which the defendant
12 is imprisoned or by a family member of the
13 victim if the victim is deceased;

14 “(viii) any report from a physical,
15 mental, or psychiatric examination of the
16 defendant conducted by a licensed health
17 care professional;

18 “(ix) the family and community cir-
19 cumstances of the defendant, including any
20 history of abuse, trauma, or involvement in
21 the child welfare system, and the potential
22 benefits to children and family members of
23 reunification with the defendant;

24 “(x) the role of the defendant in the
25 offense and whether, and to what extent,

1 an adult was involved in the offense if the
2 defendant was a juvenile at the time of the
3 offense;

4 “(xi) the diminished culpability of ju-
5 veniles as compared to that of adults, and
6 the hallmark features of youth, including
7 immaturity, impetuosity, and failure to ap-
8 preciate risks and consequences, if the de-
9 fendant was a juvenile at the time of the
10 offense; and

11 “(xii) any other information the court
12 determines relevant to the decision of the
13 court.

14 “(2) REBUTTABLE PRESUMPTION.—In the case
15 of a defendant who is 50 years of age or older on
16 the date on which the defendant files an application
17 for a sentence reduction under subsection (a), there
18 shall be a rebuttable presumption that the defendant
19 shall be released.

20 “(d) LIMITATION ON APPLICATIONS PURSUANT TO
21 THIS SECTION.—

22 “(1) SECOND APPLICATION.—Not earlier than
23 5 years after the date on which an order denying re-
24 lease on an initial application under this section be-

1 comes final, a court shall entertain a second applica-
2 tion by the same defendant under this section.

3 “(2) THIRD APPLICATION.—Not earlier than 2
4 years after the date on which an order entered by
5 a court on a second application under paragraph (1)
6 becomes final, a court shall entertain a third appli-
7 cation by the same defendant under this section.

8 “(3) FINAL APPLICATION.—A court shall enter-
9 tain a final application if the defendant—

10 “(A) is 50 years of age or older; and

11 “(B) has exhausted the sentencing modi-
12 fication process.

13 “(e) PROCEDURES.—

14 “(1) NOTICE.—Not later than 30 days after the
15 date on which the 10th year of imprisonment begins
16 for a defendant sentenced to more than 10 years of
17 imprisonment for an offense, the Bureau of Prisons
18 shall provide written notice of this section to—

19 “(A) the defendant; and

20 “(B) the sentencing court, the United
21 States attorney, and the Federal Public De-
22 fender or Executive Director of the Community
23 Defender Organization for the judicial district
24 in which the sentence described in this para-
25 graph was imposed.

1 “(2) APPLICATION.—

2 “(A) IN GENERAL.—An application for a
3 sentence reduction under this section shall be
4 filed in the judicial district in which the sen-
5 tence was imposed as a motion to reduce the
6 sentence of the defendant pursuant to this sec-
7 tion and may include affidavits or other written
8 material.

9 “(B) REQUIREMENT.—A motion to reduce
10 a sentence under this section shall be filed with
11 the sentencing court and a copy shall be served
12 on the United States attorney for the judicial
13 district in which the sentence was imposed.

14 “(3) EXPANDING THE RECORD; HEARING.—

15 “(A) EXPANDING THE RECORD.—After the
16 filing of a motion to reduce a sentence under
17 this section, the court may direct the parties to
18 expand the record by submitting additional
19 written materials relating to the motion.

20 “(B) HEARING.—

21 “(i) IN GENERAL.—The court shall,
22 upon request of the defendant or the Gov-
23 ernment, conduct a hearing on the motion,
24 at which the defendant and counsel for the

1 defendant shall be given the opportunity to
2 be heard.

3 “(ii) EVIDENCE.—In a hearing under
4 this section, the court shall allow parties to
5 present evidence.

6 “(iii) DEFENDANT’S PRESENCE.—At
7 a hearing under this section, the defendant
8 shall be present unless the defendant
9 waives the right to be present. The re-
10 quirement under this clause may be satis-
11 fied by the defendant appearing by video
12 teleconference.

13 “(iv) COUNSEL.—A defendant who is
14 unable to afford counsel is entitled to have
15 counsel appointed, at no cost to the de-
16 fendant, to represent the defendant for the
17 application and proceedings under this sec-
18 tion, including any appeal, unless the de-
19 fendant expressly waives the right to coun-
20 sel after being fully advised of their rights
21 by the court.

22 “(v) FINDINGS.—The court shall state
23 in open court, and file in writing, the rea-
24 sons for granting or denying a motion
25 under this section.

1 “(C) APPEAL.—The Government or the
2 defendant may file a notice of appeal in the dis-
3 trict court for review of a final order under this
4 section. The time limit for filing such appeal
5 shall be governed by rule 4(a) of the Federal
6 Rules of Appellate Procedure.

7 “(4) CRIME VICTIMS RIGHTS.—Upon receiving
8 an application under paragraph (2), the United
9 States attorney shall provide any notifications re-
10 quired under section 3771.

11 “(f) ANNUAL REPORT.—

12 “(1) IN GENERAL.—Not later than 1 year after
13 the date of enactment of the Second Look Act of
14 2024, and once every year thereafter, the United
15 States Sentencing Commission shall submit to the
16 Committee on the Judiciary of the Senate and the
17 Committee on the Judiciary of the House of Rep-
18 resentatives a report on requests for sentence reduc-
19 tions under this section.

20 “(2) CONTENTS.—Each report required to be
21 published under paragraph (1) shall include, for the
22 1-year period preceding the report—

23 “(A) the number of—

1 “(i) incarcerated individuals who were
2 granted a sentence reduction under this
3 section; and

4 “(ii) incarcerated individuals who
5 were denied a sentence reduction under
6 this section;

7 “(B) the number of incarcerated individ-
8 uals released from prison under this section;

9 “(C) the demographic characteristics, in-
10 cluding race and gender, of—

11 “(i) the incarcerated individuals who
12 applied for a sentenced reduction under
13 this section;

14 “(ii) the incarcerated individuals who
15 were granted a sentence reduction under
16 this section; and

17 “(iii) the incarcerated individuals who
18 were released under this section;

19 “(D) the location, categorized by Federal
20 circuit and State, of—

21 “(i) the incarcerated individuals who
22 applied for a reduction under this section;

23 “(ii) the incarcerated individuals who
24 were granted a reduction under this sec-
25 tion; and

1 “(iii) the incarcerated individuals who
2 were released under this section;

3 “(E) the average sentence reduction grant-
4 ed under this section;

5 “(F) the number of incarcerated individ-
6 uals 50 years of age or older who applied for
7 a sentence reduction under this section;

8 “(G) the number of incarcerated individ-
9 uals who are 50 years of age or older who were
10 granted a sentence reduction under this section;
11 and

12 “(H) the number of incarcerated individ-
13 uals 50 years of age or older who were released
14 from prison under this section.

15 “(3) ATTORNEY GENERAL COOPERATION.—The
16 Attorney General shall—

17 “(A) assist and provide information to the
18 United States Sentencing Commission in the
19 performance of the duties of the Commission
20 under this subsection; and

21 “(B) promptly respond to requests from
22 the Commission.”.

23 (b) TABLE OF SECTIONS.—The table of sections for
24 subchapter C of chapter 229 of title 18, United States

1 Code, is amended by inserting after the item relating to
2 section 3626 the following:

“3627. Modification of certain terms of imprisonment.”.

3 (c) TECHNICAL AND CONFORMING AMENDMENT.—

4 Section 3582(c) of title 18, United States Code, is amend-
5 ed—

6 (1) in paragraph (1)(B), by striking “and” at
7 the end;

8 (2) in paragraph (2), by striking the period at
9 the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(3) the court may reduce a term of imprison-
12 ment in accordance with section 3627.”.

13 (d) APPLICABILITY.—The amendments made by this
14 section shall apply to any conviction entered before, on,
15 or after the date of enactment of this Act.

○