

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To improve the bill.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.**

**S. 2123**

To reform sentencing laws and correctional institutions, and  
for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. GRASSLEY  
(for himself, Mr. DURBIN, Mr. CORNYN, Mr. WHITE-  
HOUSE, Mr. LEE, Mr. SCHUMER, Mr. GRAHAM, Mr.  
LEAHY, Mr. BOOKER, Mr. COCHRAN, Mr. BENNET, Mr.  
KIRK, Mr. MANCHIN, Mr. SULLIVAN, and Mr. DAINES)

Viz:

1        On page 143, line 12, insert “and for which the of-  
2 fender’s release from any term of imprisonment was with-  
3 in 15 years of the commencement of the instant offense”  
4 before the period.

5        On page 146, line 11, insert “a term of imprisonment  
6 may be reduced only if the defendant has not been con-  
7 victed of any serious violent felony and” after “offense,”.

8        On page 146, line 12, strike “may”.

1       On page 146, beginning on line 15, strike “, reduce  
2 the term of imprisonment for the offense”.

3       On page 146, line 21, strike “if such” and insert  
4 “finds”.

5       On page 147, line 7, insert “, including a review of  
6 any prior criminal conduct or any other relevant informa-  
7 tion from Federal, State, and local authorities” after “sec-  
8 tion”.

9       On page 147, strike lines 11 through 20, and insert  
10 the following:

11           (1) in subsection (f)—

12               (A) in the matter preceding paragraph

13           (1)—

14                       (i) by striking “or section 1010” and  
15                       inserting “, section 1010”; and

16                       (ii) by inserting “, or section 70503 or  
17                       70506 of title 46” after “963”;

18               (B) by striking paragraph (1) and insert-  
19           ing the following:

20           “(1) the defendant does not have—

21                       “(A) more than 4 criminal history points,  
22                       excluding any criminal history points resulting

1 from a 1-point offense, as determined under the  
2 sentencing guidelines;

3 “(B) a prior 3-point offense, as determined  
4 under the sentencing guidelines; and

5 “(C) a prior 2-point violent offense, as de-  
6 termined under the sentencing guidelines;” and

7 (C) after paragraph (5), by inserting the  
8 following:

9 “Information disclosed by a defendant under this sub-  
10 section may not be used to enhance the sentence of the  
11 defendant unless the information relates to a violent of-  
12 fense.”; and

13 On page 148, strike lines 15 through 25 and insert  
14 the following:

15 “(h) DEFINITION OF VIOLENT OFFENSE.—As used  
16 in this section, the term ‘violent offense’ means a ‘crime  
17 of violence’, as defined in section 16, that is punishable  
18 by imprisonment.”.

19 On page 149, line 13, strike “or section” and insert  
20 “, section”.

21 On page 149, line 14, insert “, or section 70503 or  
22 70506 of title 46,” after “963)”.

1       On page 150, strike lines 7 through 14 and insert  
2 the following:

3           “(3) the defendant was not an organizer, lead-  
4 er, manager, or supervisor of other participants in  
5 the offense, as determined under the sentencing  
6 guidelines;

7       On page 150, line 20, insert “, unless the defendant  
8 was a minor or minimal participant, as determined under  
9 the sentencing guidelines” before the semicolon.

10       On page 151, between lines 8 and 9, insert the fol-  
11 lowing:

12 “Information disclosed by a defendant under this sub-  
13 section may not be used to enhance the sentence of the  
14 defendant unless the information relates to a violent of-  
15 fense.

16       On page 152, strike lines 10 through 20 and insert  
17 the following: “United States Code, is amended, in the  
18 matter preceding clause (i), by striking ‘second or subse-  
19 quent conviction under this subsection’ and inserting ‘vio-  
20 lation of this subsection that occurs after a prior convic-  
21 tion under this subsection has become final’.”.

1           On page 153, line 8, insert “a term of imprisonment  
2 may be reduced only if the instant violation was for a drug  
3 trafficking offense that did not involve a violation of clause  
4 (ii) or (iii) of section 924(c)(1)(A) of title 18, United  
5 States Code, the defendant has not otherwise been con-  
6 victed of any serious violent felony, and” after “offense,”.

7           On page 153, line 9, strike “may”.

8           On page 153, beginning on line 12, strike “, reduce  
9 the term of imprisonment for the offense”.

10          On page 153, line 18, strike “if such” and insert  
11 “finds”.

12          On page 154, line 4, insert “, including a review of  
13 any prior criminal conduct or any other relevant informa-  
14 tion from Federal, State, and local authorities” after “sec-  
15 tion”.

16          Beginning on page 154, strike line 5 and all that fol-  
17 lows through page 155, line 23.

18          On page 156, line 1, strike “106” and insert “105”.

1 On page 157, line 1, strike “107” and insert “106”.

2 On page 158, line 1, strike “108” and insert “107”.

3 On page 162, line 3, strike “109” and insert “108”.

4 On page 162, line 25, insert “and organized by Fed-  
5 eral district where applicable” after “paragraph (1)”.

6 On page 163, line 5, insert “, including referrals from  
7 investigative agencies of the Department of Justice,” after  
8 “prosecution”.

9 On page 166, between lines 12 and 13, insert the fol-  
10 lowing:

11 **SEC. 109. FENTANYL.**

12 (a) CONTROLLED SUBSTANCES ACT AMENDMENT.—  
13 Section 401(b) of the Controlled Substances Act (21  
14 U.S.C. 841(b)) is amended by adding at the end the fol-  
15 lowing:

16 “(8)(A) In the case of a violation of subsection (a),  
17 if the mixture or substance containing a detectable  
18 amount of heroin also contains a detectable amount of N-  
19 phenyl-N-[ 1-(2-phenylethyl) -4-piperidinyl] propanamide

1 or any analogue of N-phenyl-N-[ 1-(2-phenylethyl) -4-  
2 piperidinyl] propanamide, then a court shall—

3 “(i) not impose a term of probation; and

4 “(ii) in addition to the term of punishment for  
5 the violation of this section, impose a term of impris-  
6 onment not to exceed 5 years.

7 “(B) A term of imprisonment imposed on a person  
8 under subparagraph (A)(ii) may not run concurrently with  
9 any term of imprisonment imposed on the person under  
10 any other provision of law.

11 “(9)(A) In the case of a violation of subsection (a),  
12 if the mixture or substance containing a detectable  
13 amount of N-phenyl-N-[ 1-(2-phenylethyl) -4-piperidinyl]  
14 propanamide or any analogue of N-phenyl-N-[ 1-(2-  
15 phenylethyl) -4-piperidinyl] propanamide was represented  
16 to be or sold as heroin, then a court shall—

17 “(i) not impose a term of probation; and

18 “(ii) in addition to the term of punishment for  
19 the violation of this section, impose a term of impris-  
20 onment not to exceed 5 years.

21 “(B) A term of imprisonment imposed on a person  
22 under subparagraph (A)(ii) may not run concurrently with  
23 any term of imprisonment imposed on the person under  
24 any other provision of law.”.

1 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT  
2 ACT AMENDMENT.—Section 1010(b) of the Controlled  
3 Substances Import and Export Act (21 U.S.C. 960(b)) is  
4 amended by adding at the end the following:

5 “(8)(A) In the case of a violation of subsection (a),  
6 if the mixture or substance containing a detectable  
7 amount of heroin also contains a detectable amount of N-  
8 phenyl-N-[ 1-(2-phenylethyl) -4-piperidinyl] propanamide  
9 or any analogue of N-phenyl-N-[ 1-(2-phenylethyl) -4-  
10 piperidinyl] propanamide, then a court shall—

11 “(i) not impose a term of probation; and

12 “(ii) in addition to the term of punishment for  
13 the violation of this section, impose a term of impris-  
14 onment not to exceed 5 years.

15 “(B) A term of imprisonment imposed on a person  
16 under subparagraph (A)(ii) may not run concurrently with  
17 any term of imprisonment imposed on the person under  
18 any other provision of law.

19 “(9)(A) In the case of a violation of subsection (a),  
20 if the mixture or substance containing a detectable  
21 amount of N-phenyl-N-[ 1-(2-phenylethyl) -4-piperidinyl]  
22 propanamide or any analogue of N-phenyl-N-[ 1-(2-  
23 phenylethyl) -4-piperidinyl] propanamide was represented  
24 to be or sold as heroin, then a court shall—

25 “(i) not impose a term of probation; and



1           “(ii) in addition to the term of punishment for  
2           the violation of this section, impose a term of impris-  
3           onment not to exceed 5 years.

4           “(B) A term of imprisonment imposed on a person  
5           under subparagraph (A)(ii) may not run concurrently with  
6           any term of imprisonment imposed on the person under  
7           any other provision of law.”.

8           On page 170, beginning on line 1, strike “Private en-  
9           tities that will, on a volunteer basis” and insert “Non-  
10          profit or other private organizations, including faith-based  
11          and community-based organizations, that will”.

12          On page 178, strike line 21 and all that follows  
13          through page 179, line 10 and insert the following:

14                   “(A) ELIGIBLE PRISONER.—The term ‘eli-  
15                   gible prisoner’ means—

16                           “(i) an individual who has been sen-  
17                           tenced to a term of imprisonment pursuant  
18                           to a conviction for a Federal criminal of-  
19                           fense; or

20                           “(ii) an individual within the custody  
21                           of the Bureau of Prisons, including an in-  
22                           dividual in a Bureau of Prisons contracted  
23                           facility.”.



## 11

1 through the High Intensity Drug  
2 Trafficking Areas program and other  
3 task forces;

4 (II) hire, train, and equip law en-  
5 forcement officers and prosecutors;  
6 and

7 (III) promote crime reduction  
8 programs using evidence-based prac-  
9 tices and strategic planning to help  
10 reduce crime and criminal recidivism.

11 On page 226, line 17, insert “and the Secretary of  
12 Labor” after “Affairs”.

13 On page 227, line 3, insert “and the Secretary of  
14 Labor” after “Affairs”.

15 On page 227, line 8, insert “and the Secretary of  
16 Labor” after “Affairs”.

17 On page 227, line 12, insert “AND DOL” after “VA”.

18 On page 227, line 13, insert “and the Department  
19 of Labor” after “Affairs”.