

109TH CONGRESS
2^D SESSION

H. R. 6254

To amend title 18, United States Code, to reaffirm the intent of Congress in the Sentencing Reform Act of 1984, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2006

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to reaffirm the intent of Congress in the Sentencing Reform Act of 1984, 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 “Sentencing Fairness
5 and Equity Restoration Act of 2006”.

6 **SEC. 2. REAFFIRMATION OF INTENT OF CONGRESS IN THE**
7 **SENTENCING REFORM ACT OF 1984.**

8 (a) STATUTORY MAXIMUM.—Section 3553(b) of title
9 18, United States Code, is amended—

10 (1) in paragraph (1)—

1 (A) by striking the first sentence and in-
2 serting “Except as provided in paragraph (2),
3 the court shall impose a sentence of a kind, and
4 no less than the minimum of the range, re-
5 ferred to in subsection (a)(4) unless the court
6 finds that there exists a mitigating cir-
7 cumstance of a kind, or to a degree, not ade-
8 quately taken into consideration by the Sen-
9 tencing Commission in formulating the guide-
10 lines that should result in a sentence different
11 from that described.”;

12 (B) in the second sentence, by inserting
13 “mitigating” before “circumstance”; and

14 (C) by inserting after the second sentence
15 the following: “The court may impose a sen-
16 tence above the minimum of the range, up to
17 the maximum sentence provided in the statute
18 establishing the offense.”

19 (2) in paragraph (2)(A)—

20 (A) by striking “the court shall impose a
21 sentence of the kind, and within the range” and
22 insert “the court shall impose a sentence of a
23 kind, and no less than the minimum of the
24 range”;

1 (B) by striking clause (i) and redesignig-
2 nating clauses (ii) through (iii) as clauses (i)
3 through (ii) respectively;

4 (C) by striking “In determining whether a
5 circumstance” and inserting “In determining
6 whether a mitigating circumstance”; and

7 (D) by inserting after the sentence amend-
8 ed by clause (C) of this paragraph the following
9 “The court may impose a sentence above the
10 minimum of the range, up to the maximum sen-
11 tence provided in the statute establishing the
12 offense.”.

13 (b) CONFORMING CHANGES.—Section 3553(e) of title
14 18, United States Code, is amended to read as follows:

15 “(c) STATEMENT OF REASONS FOR IMPOSING A SEN-
16 TENCE.—The court, at the time of sentencing, shall state
17 in open court the reasons for its imposition of the par-
18 ticular sentence. If the court relies on statements received
19 in camera, in accordance with the Federal Rules of Crimi-
20 nal Procedure, the court shall state that such statements
21 were so received and that it relied on the content of those
22 statements. If the court does not order restitution, or or-
23 ders only partial restitution, the court shall include in its
24 statement the reasons therefor. The court shall provide a
25 transcription or other appropriate public record of the

1 statement of reasons, together with the order of judgment
2 and commitment, to the Sentencing Commission and if the
3 sentence includes a term of imprisonment, to the Bureau
4 of Prisons.”.

5 (c) STANDARDS FOR REVIEW OF SENTENCE.—Sec-
6 tion 3742(e) of title 18, United States Code, is amended
7 by striking the last sentence and inserting “The court of
8 appeals shall review de novo any sentence imposed below
9 the minimum of the range in the applicable sentencing
10 guidelines. In any other case, the court of appeals shall
11 determine whether the sentence was unreasonable.”

12 **SEC. 3. UNIFORM NATIONAL STANDARDS FOR DOWNWARD**
13 **DEPARTURES FOR SUBSTANTIAL ASSIST-**
14 **ANCE.**

15 (a) SUBSTANTIAL ASSISTANCE POLICY.—Not later
16 than 180 days after the date of the enactment of this Act,
17 the Attorney General shall create and implement a new
18 policy governing the filing of motions for a departure sen-
19 tence reductions under Section 3553(e) of title 18, United
20 States Code, Section 5K1.1 of the United States Sen-
21 tencing Commission Guidelines Manual, and Rule 35(b)
22 of the Federal Rules of Criminal Procedure. The policy
23 shall include uniform guidance for—

24 (1) the definition of substantial assistance in
25 the investigation of another person;

1 (2) the process by which determinations regard-
2 ing substantial assistance is made; and

3 (3) the criteria that govern the determination of
4 the extent of the reduction sought by the Govern-
5 ment.

6 (b) REPORT TO CONGRESS.—Not later than 180 days
7 after the date of the enactment of this Act, the Attorney
8 General shall report to Congress the policy created pursu-
9 ant to subsection (a).

10 **SEC. 4. ASSURING JUDICIAL ADMINISTRATIVE RESPON-**
11 **SIBILITIES ARE PERFORMED BY THE JUDI-**
12 **CIAL BRANCH.**

13 Section 994(w)(1) of title 28, United States Code, is
14 amended—

15 (1) by inserting “(other than a case involving a
16 sentence imposed for a petty offense, as defined in
17 section 19 of title 18, for which there is no applica-
18 ble sentencing guideline)” after “every criminal
19 case”; and

20 (2) by adding at the end the following: “The
21 duties and responsibilities set forth herein, or any
22 portion thereof, shall not be delegated to the execu-
23 tive branch”.

○