

117TH CONGRESS  
1ST SESSION

# H. R. 2858

To authorize the court to depart from a statutory minimum in the case of a juvenile offender, youthful victim offender, and certain other minors, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2021

Mr. WESTERMAN (for himself, Ms. BASS, Mr. CÁRDENAS, and Mr. TRONE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To authorize the court to depart from a statutory minimum in the case of a juvenile offender, youthful victim offender, and certain other minors, 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 “Sara’s Law and the  
5 Preventing Unfair Sentencing Act of 2021”.

6 **SECTION 2. SENTENCING YOUTHFUL VICTIM OFFENDERS**

7 **WHO HAVE BEEN TRAFFICKED, ABUSED, OR**  
8 **ASSAULTED.**

9 (a) SENTENCING YOUTHFUL VICTIM OFFENDERS.—

1           (1) IN GENERAL.—Section 3553 of chapter 227  
2 of title 18, United States Code, is amended by add-  
3 ing at the end the following:

4           “(h) SENTENCING YOUTHFUL VICTIM OFFEND-  
5 ERS.—

6           “(1) STATUTORY MINIMUMS.—In the case of a  
7 youthful victim offender, the court shall have the au-  
8 thority to impose a sentence that is below a level es-  
9 tablished by statute as a minimum sentence so as to  
10 consider the effect of trauma on the offender’s con-  
11 duct.

12           “(2) SUSPENSION OF SENTENCE.—In the case  
13 of a youthful offender, the court shall have the au-  
14 thority to suspend any portion of an imposed sen-  
15 tence.

16           “(3) YOUTHFUL VICTIM OFFENDER DE-  
17 FINED.—In this subsection, the term ‘youthful vic-  
18 tim offender’ means an individual who—

19           “(A) has not attained the age of 18; and

20           “(B) has been convicted of a violent of-  
21 fense against a person who the court finds, by  
22 clear and convincing evidence, engaged in con-  
23 duct against such individual, not earlier than 1  
24 year before such violent offense, that is an of-

1 fense under section 1591 or an offense under  
2 chapter 71, 109A, 110, or 117.”.

3 (2) APPLICATION.—The amendments made by  
4 this section shall apply only to a conviction entered  
5 on or after the date of the enactment of this Act.

6 (b) DIRECTIVE TO SENTENCING COMMISSION.—Pur-  
7 suant to its authority under section 994(p) of title 28,  
8 United States Code, and in accordance with this section,  
9 the United States Sentencing Commission shall review and  
10 amend, if appropriate, its guidelines and its policy state-  
11 ments with respect to youthful victim offenders to ensure  
12 that the guidelines and policy statements are consistent  
13 with the amendments made by subsection (a).

14 **SECTION 3. SENTENCING JUVENILE OFFENDERS.**

15 (a) SENTENCING JUVENILE OFFENDERS.—

16 (1) IN GENERAL.—Section 3553 of chapter 227  
17 of title 18, United States Code, is amended—

18 (A) in subsection (a)—

19 (i) in paragraph (6), by striking  
20 “and” at the end;

21 (ii) in paragraph (7), by striking the  
22 period at the end and inserting “; and”;  
23 and

24 (iii) by adding at the end the fol-  
25 lowing:

1           “(8) in the case of a juvenile (as such term is  
2 defined in section 5031), the diminished culpability  
3 of juveniles compared to that of adults.”; and

4           (B) by adding at the end the following:

5           “(h) LIMITATION ON STATUTORY MINIMUM FOR JU-  
6 VENILE OFFENDERS.—In the case of a juvenile (as such  
7 term is defined in section 5031), the court shall have the  
8 authority to impose a sentence that is 35 percent below  
9 a level established by statute as a minimum sentence so  
10 as to reflect the juvenile’s age and prospect for rehabilita-  
11 tion.”.

12           (2) APPLICATION.—The amendments made by  
13 this section shall apply only to a conviction entered  
14 on or after the date of the enactment of this Act.

15           (b) DIRECTIVE TO SENTENCING COMMISSION.—Pur-  
16 suant to its authority under section 994(p) of title 28,  
17 United States Code, and in accordance with this section,  
18 the United States Sentencing Commission shall review and  
19 amend, if appropriate, its guidelines and its policy state-  
20 ments with respect to juveniles to ensure that the guide-  
21 lines and policy statements are consistent with the amend-  
22 ments made by subsection (a).

1 **SECTION 4. PAROLE FOR JUVENILES.**

2 (a) IN GENERAL.—Chapter 403 of title 18, United  
3 States Code, is amended by inserting after section 5032  
4 the following:

5 **“§ 5032A. Modification of an imposed term of impris-**  
6 **onment for violations of law committed**  
7 **prior to age 18**

8 “(a) IN GENERAL.—Notwithstanding any other pro-  
9 vision of law, a court may reduce a term of imprisonment  
10 imposed upon a defendant convicted as an adult for an  
11 offense committed and completed before the defendant at-  
12 tained 18 years of age if—

13 “(1) the defendant has served not less than 20  
14 years in custody for the offense; and

15 “(2) the court finds, after considering the fac-  
16 tors set forth in subsection (c), that the defendant  
17 is not a danger to the safety of any person or the  
18 community and that the interests of justice warrant  
19 a sentence modification.

20 “(b) SUPERVISED RELEASE.—Any defendant whose  
21 sentence is reduced pursuant to subsection (a) shall be or-  
22 dered to serve a period of supervised release of not less  
23 than 5 years following release from imprisonment. The  
24 conditions of supervised release and any modification or  
25 revocation of the term of supervised release shall be in  
26 accordance with section 3583.

1       “(c) FACTORS AND INFORMATION TO BE CONSID-  
2 ERED IN DETERMINING WHETHER TO MODIFY A TERM  
3 OF IMPRISONMENT.—The court, in determining whether  
4 to reduce a term of imprisonment pursuant to subsection  
5 (a), shall consider—

6           “(1) the factors described in section 3553(a),  
7 including the nature of the offense and the history  
8 and characteristics of the defendant;

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

11           “(3) a report and recommendation of the Bu-  
12 reau of Prisons, including information on whether  
13 the defendant has substantially complied with the  
14 rules of each institution in which the defendant has  
15 been confined and whether the defendant has com-  
16 pleted any educational, vocational, or other prison  
17 program, where available;

18           “(4) a report and recommendation of the  
19 United States attorney for any district in which an  
20 offense for which the defendant is imprisoned was  
21 prosecuted;

22           “(5) whether the defendant has demonstrated  
23 maturity, rehabilitation, and a fitness to reenter so-  
24 ciety sufficient to justify a sentence reduction;

1           “(6) any statement, which may be presented  
2 orally or otherwise, by any victim of an offense for  
3 which the defendant is imprisoned or by a family  
4 member of the victim if the victim is deceased;

5           “(7) any report from a physical, mental, or psy-  
6 chiatric examination of the defendant conducted by  
7 a licensed health care professional;

8           “(8) the family and community circumstances  
9 of the defendant at the time of the offense, including  
10 any history of abuse, trauma, or involvement in the  
11 child welfare system;

12           “(9) the extent of the role of the defendant in  
13 the offense and whether, and to what extent, an  
14 adult was involved in the offense;

15           “(10) the diminished culpability of juveniles as  
16 compared to that of adults, and the hallmark fea-  
17 tures of youth, including immaturity, impetuosity,  
18 and failure to appreciate risks and consequences,  
19 which counsel against sentencing juveniles to the  
20 otherwise applicable term of imprisonment; and

21           “(11) any other information the court deter-  
22 mines relevant to the decision of the court.

23           “(d) LIMITATION ON APPLICATIONS PURSUANT TO  
24 THIS SECTION.—

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

6           “(2) FINAL APPLICATION.—Not earlier than 5  
7           years after the date on which an order entered by  
8           a court on a second application under paragraph (1)  
9           becomes final, a court shall entertain a final applica-  
10          tion by the same defendant under this section.

11          “(3) PROHIBITION.—A court may not entertain  
12          an application filed after an application filed under  
13          paragraph (2) by the same defendant.

14          “(e) PROCEDURES.—

15                 “(1) NOTICE.—The Bureau of Prisons shall  
16                 provide written notice of this section to—

17                         “(A) any defendant who has served not  
18                         less than 19 years in prison for an offense com-  
19                         mitted and completed before the defendant at-  
20                         tained 18 years of age for which the defendant  
21                         was convicted as an adult; and

22                         “(B) the sentencing court, the United  
23                         States attorney, and the Federal Public De-  
24                         fender or Executive Director of the Community  
25                         Defender Organization for the judicial district



1 in which the sentence described in subpara-  
2 graph (A) was imposed.

3 “(2) CRIME VICTIMS RIGHTS.—Upon receiving  
4 notice under paragraph (1), the United States attor-  
5 ney shall provide any notifications required under  
6 section 3771.

7 “(3) APPLICATION.—

8 “(A) IN GENERAL.—An application for a  
9 sentence reduction under this section shall be  
10 filed as a motion to reduce the sentence of the  
11 defendant and may include affidavits or other  
12 written material.

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

18 “(4) EXPANDING THE RECORD; HEARING.—

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

24 “(B) HEARING.—

1           “(i) IN GENERAL.—The court shall  
2           conduct a hearing on the motion, at which  
3           the defendant and counsel for the defend-  
4           ant shall be given the opportunity to be  
5           heard.

6           “(ii) EVIDENCE.—In a hearing under  
7           this section, the court may allow parties to  
8           present evidence.

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

16          “(iv) COUNSEL.—A defendant who is  
17          unable to obtain counsel is entitled to have  
18          counsel appointed to represent the defend-  
19          ant for proceedings under this section, in-  
20          cluding any appeal, unless the defendant  
21          waives the right to counsel.

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           “(f) EDUCATIONAL AND REHABILITATIVE PRO-  
8           GRAMS.—A defendant who is convicted and sentenced as  
9           an adult for an offense committed and completed before  
10          the defendant attained 18 years of age may not be de-  
11          prived of any educational, training, or rehabilitative pro-  
12          gram that is otherwise available to the general prison pop-  
13          ulation.”.

14          (b) TABLE OF SECTIONS.—The table of sections for  
15          chapter 403 of title 18, United States Code, is amended  
16          by inserting after the item relating to section 5032 the  
17          following:

          “5032A. Modification of an imposed term of imprisonment for violations of law  
          committed prior to age 18.”.

18          (c) APPLICABILITY.—The amendments made by this  
19          section shall apply to any conviction entered before, on,  
20          or after the date of enactment of this Act.

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