

116TH CONGRESS  
1ST SESSION

# H. R. 3795

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.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2019

Ms. BASS introduced the following bill; which was referred to the Committee on the Judiciary

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## 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       2019”.

1 **SEC. 2. MODIFICATION OF CERTAIN TERMS OF IMPRISON-**  
2 **MENT.**

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

6 **“SEC. 3627. MODIFICATION OF CERTAIN TERMS OF IMPRIS-**  
7 **ONMENT.**

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 if—

11 “(1) the imposed term of imprisonment was  
12 more than 10 years;

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

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

17 “(A) the defendant—

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

20 “(ii) demonstrates readiness for re-  
21 entry; and

22 “(B) the interests of justice warrant a sen-  
23 tence modification.

24 “(b) SUPERVISED RELEASE.—

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

4                   “(A) the term of supervised release in-  
5                   cluded as part of the original sentence imposed  
6                   on the defendant; or

7                   “(B) in the case of a defendant whose  
8                   original sentence did not include a term of su-  
9                   pervised release, a term of supervised release  
10                  not to exceed the authorized terms of super-  
11                  vised release described in section 3583.

12           “(2) CONDITIONS OF SUPERVISED RELEASE.—  
13           The conditions of supervised release and any modi-  
14           fication or revocation of the term of supervised re-  
15           lease shall be in accordance with section 3583.

16           “(c) FACTORS AND INFORMATION TO BE CONSID-  
17           ERED IN DETERMINING WHETHER TO MODIFY A TERM  
18           OF IMPRISONMENT.—

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

22                           “(A) may consider the factors described in  
23                           section 3553(a), including the nature of the of-  
24                           fense and the history and characteristics of the  
25                           defendant; and

1 “(B) shall consider—

2 “(i) the age of the defendant at the  
3 time of the offense;

4 “(ii) the age of the defendant at the  
5 time of the sentence modification petition  
6 and relevant data regarding the decline in  
7 criminality as the age of defendants in-  
8 crease;

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

11 “(iv) a report and recommendation of  
12 the Bureau of Prisons, including informa-  
13 tion on whether the defendant has substan-  
14 tially complied with the rules of each insti-  
15 tution in which the defendant has been  
16 confined and whether the defendant has  
17 completed any educational, vocational, or  
18 other prison program, where available;

19 “(v) any report and recommendation  
20 of the United States attorney for any dis-  
21 trict in which an offense for which the de-  
22 fendant is imprisoned was prosecuted;

23 “(vi) whether the defendant has dem-  
24 onstrated maturity, rehabilitation, and a

1 fitness to reenter society sufficient to jus-  
2 tify a sentence reduction;

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

8 “(viii) any report from a physical,  
9 mental, or psychiatric examination of the  
10 defendant conducted by a licensed health  
11 care professional;

12 “(ix) the family and community cir-  
13 cumstances of the defendant, including any  
14 history of abuse, trauma, or involvement in  
15 the child welfare system, and the potential  
16 benefits to children and family members of  
17 reunification with the defendant;

18 “(x) the role of the defendant in the  
19 offense and whether, and to what extent,  
20 an adult was involved in the offense if the  
21 defendant was a juvenile at the time of the  
22 offense;

23 “(xi) the diminished culpability of ju-  
24 veniles as compared to that of adults, and  
25 the hallmark features of youth, including

1 immaturity, impetuosity, and failure to ap-  
2 preciate risks and consequences, if the de-  
3 fendant was a juvenile at the time of the  
4 offense; and

5 “(xii) any other information the court  
6 determines relevant to the decision of the  
7 court.

8 “(2) REBUTTABLE PRESUMPTION.—In the case  
9 of a defendant who is 50 years of age or older on  
10 the date on which the defendant files an application  
11 for a sentence reduction under subsection (a), there  
12 shall be a rebuttable presumption that the sentence  
13 of the defendant shall be reduced.

14 “(d) LIMITATION ON APPLICATIONS PURSUANT TO  
15 THIS SECTION.—

16 “(1) SECOND APPLICATION.—Not earlier than  
17 5 years after the date on which an order denying re-  
18 lease on an initial application under this section be-  
19 comes final, a court shall entertain a second applica-  
20 tion by the same defendant under this section.

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

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

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

4                   “(B) has exhausted the sentencing modi-  
5       fication process.

6       “(e) PROCEDURES.—

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

12                   “(A) the defendant; and

13                   “(B) the sentencing court, the United  
14      States attorney, and the Federal Public De-  
15      fender or Executive Director of the Community  
16      Defender Organization for the judicial district  
17      in which the sentence described in this para-  
18      graph was imposed.

19       “(2) APPLICATION.—

20           “(A) IN GENERAL.—An application for a  
21      sentence reduction under this section shall be  
22      filed in the judicial district in which the sen-  
23      tence was imposed as a motion to reduce the  
24      sentence of the defendant pursuant to this sec-

tion and may include affidavits or other written material.

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

“(3) EXPANDING THE RECORD; HEARING.—

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

“(B) HEARING.—

“(i) IN GENERAL.—The court shall, upon request of the defendant or the Government, conduct a hearing on the motion, at which the defendant and counsel for the defendant shall be given the opportunity to be heard.

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

“(iii) DEFENDANT’S PRESENCE.—At a hearing under this section, the defendant

1 shall be present unless the defendant  
2 waives the right to be present. The re-  
3 quirement under this clause may be satis-  
4 fied by the defendant appearing by video  
5 teleconference.

6 “(iv) COUNSEL.—A defendant who is  
7 unable to afford counsel is entitled to have  
8 counsel appointed, at no cost to the de-  
9 fendant, to represent the defendant for the  
10 application and proceedings under this sec-  
11 tion, including any appeal, unless the de-  
12 fendant expressly waives the right to coun-  
13 sel after being fully advised of their rights  
14 by the court.

15 “(v) FINDINGS.—The court shall state  
16 in open court, and file in writing, the rea-  
17 sons for granting or denying a motion  
18 under this section.

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

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

5           “(f) ANNUAL REPORT.—

6           “(1) IN GENERAL.—Not later than 1 year after  
7           the date of enactment of the Second Look Act of  
8           2019, and once every year thereafter, the United  
9           States Sentencing Commission shall submit to the  
10          Committee on the Judiciary of the Senate and the  
11          Committee on the Judiciary of the House of Rep-  
12          resentatives a report on requests for sentence reduc-  
13          tions under this section.

14          “(2) CONTENTS.—Each report required to be  
15          published under paragraph (1) shall include, for the  
16          1-year period preceding the report—

17                 “(A) the number of incarcerated individ-  
18                 uals granted and denied sentence reductions  
19                 under this section;

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

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

1 “(i) the incarcerated individuals who  
2 applied for a sentence reduction under this  
3 section;

4 “(ii) the incarcerated individuals  
5 granted sentence reductions under this sec-  
6 tion; and

7 “(iii) the incarcerated individuals who  
8 were released from prison under this sec-  
9 tion;

10 “(D) the location, categorized by Federal  
11 circuit and State, of—

12 “(i) the incarcerated individuals who  
13 applied for sentence reductions under this  
14 section;

15 “(ii) the incarcerated individuals  
16 granted sentence reductions under this sec-  
17 tion; and

18 “(iii) the incarcerated individuals who  
19 were released from prison under this sec-  
20 tion;

21 “(E) the average sentence reduction grant-  
22 ed under this section;

23 “(F) the number of incarcerated individ-  
24 uals 50 years of age or older who applied for  
25 sentence reductions under this section;

1           “(G) the number of incarcerated individ-  
2           uals 50 years of age or older who were granted  
3           sentence reductions under this section; and

4           “(H) the number of individuals incarcer-  
5           ated 50 years of age or older who were released  
6           from prison under this section.

7           “(3) ATTORNEY GENERAL COOPERATION.—The  
8           Attorney General shall assist and provide informa-  
9           tion to the United States Sentencing Commission in  
10          the performance of the Commission’s duties under  
11          this subsection and promptly respond to requests  
12          from the Commission.”.

13          (b) TABLE OF SECTIONS.—The table of sections for  
14          subchapter C of chapter 229 of title 18, United States  
15          Code, is amended by inserting after the item relating to  
16          section 3626 the following:

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

17          (c) TECHNICAL AND CONFORMING AMENDMENT.—  
18          Section 3582(c) of title 18, United States Code, is amend-  
19          ed—

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

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

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

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

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

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