

July 28, 2010

Mr. SCOTT of Virginia: Mr. Speaker, S. 1789, the Fair Sentencing Act of 2010, is a bipartisan compromise that was negotiated and drafted by Democratic and Republican members of the Senate Judiciary Committee. It then passed the Senate Judiciary Committee and the Senate by unanimous consent.

The legislation will reduce the 100-to-1 sentencing disparity between crack and powder cocaine in Federal law from 100-to-1 down to 18-to-1. The crack penalties, under present law, for example, it only takes five grams of crack to trigger a 5-year mandatory minimum sentence, but for powder cocaine it takes 500 grams to trigger the same 5-year mandatory sentence, a 100-to-1 ratio.

This disparity is particularly egregious when you consider that the Sentencing Commission has concluded that there is no pharmacological difference between the two forms of cocaine, and that 80 percent of the crack defendants are black, whereas only 30 percent of the powder cocaine defendants are black.

The crack penalties also create bizarre sentences when you consider sentences such as the 24 1/2 -year sentence given to Kimba Smith for behavior that was just inferentially involved with her boyfriend's cocaine dealing.

The legislation moves the threshold amount for the 5-year mandatory minimum from five grams to one ounce, reducing the disparity from 100-to-1 to 18-to-1. The legislation does not fully eliminate the 100-to-1 disparity in sentencing for crack and powder, but it does make good progress in addressing what is widely recognized as unfair treatment of like offenders based simply on the form of cocaine they possessed.

The bill also addresses another concern. Arguments are made that crack defendants are more likely to use violence or minors in the distribution, and this bill specifically requires the Sentencing Commission to significantly increase penalties for drug violations involving violence, threats of violence, or use of minors, and another long list of aggravating activities that would be

involved. This way the defendant is sentenced for what he or she actually did, not the form of cocaine involved.

Many organizations are supporting S. 1789, including the Federal Law Enforcement Officers Association, the National District Attorneys Association, the National Association of Police Officers, the Council of Prison Locals, and several conservative religious organizations such as Prison Fellowship and the National Association of Evangelicals. And all of the civil rights organizations that one can imagine are also supporting the legislation.

I would like to thank the sponsors of the Senate bill, Senators *Durbin* of Illinois and *Sessions* of Alabama, and *Orrin Hatch* of Utah, who came together to pass this important bipartisan legislation.

There are many Members of the House who have worked tirelessly over the years to reform this disparity, including chairman of the Judiciary Committee, Mr. *Conyers*; *Sheila Jackson Lee*; *Maxine Waters*; *Charlie Rangel*; and *Mel Watt*.

On behalf of the organizations and Members of Congress who support S. 1789, I urge my colleagues to support the legislation.