

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 388

To impose mandatory sentences for violent felonies committed against individuals of age sixty-five or over, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

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

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## A BILL

To impose mandatory sentences for violent felonies committed against individuals of age sixty-five or over, 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 That chapter 227 of title 18, United States Code, is  
4 amended by adding at the end the following new section:

5 **“§3581. Mandatory sentence for felony against indi-**  
6 **vidual of age sixty-five or over**

7 “(a) Upon any plea of guilty or nolo contendere or  
8 verdict or finding of guilty of a defendant of a crime of  
9 violence under this title, if any victim of such crime is an  
10 individual who had attained age sixty-five on or before the

1 date that the offense was committed, the court shall sen-  
2 tence the defendant to imprisonment—

3 “(1) for a term of not less than one-half of the  
4 maximum term of imprisonment provided for such  
5 crime under this title, in the case of a first offense  
6 to which this section is applicable; and

7 “(2) for a term of not less than three-fourths  
8 of the maximum term of imprisonment provided for  
9 such crime under this title, in the case of a second  
10 or subsequent offense to which this section is appli-  
11 cable.

12 “(b) Notwithstanding any other provision of law, with  
13 respect to a sentence imposed under subsection (a) of this  
14 section—

15 “(1) the court shall not suspend such sentence;

16 “(2) the court shall not give the defendant a  
17 probationary sentence;

18 “(3) no defendant shall be eligible for release  
19 on parole before the end of such sentence;

20 “(4) such sentence shall be served consecutively  
21 to any other sentence imposed under this title; and

22 “(5) the court shall reject any plea agreement  
23 which would result in the imposition of a term of im-  
24 prisonment less than that which would have been

1 imposed under subsection (a) of this section in con-  
2 nection with any charged offense.

3 “(c) As used in this section, the term—

4 “(1) ‘crime of violence’ means—

5 “(A) a felony that has an element of the  
6 offense the use, attempted use, or threatened  
7 use of physical force against the person or  
8 property of another; or

9 “(B) a felony that, by its nature, involves  
10 a substantial risk that physical force against  
11 the person or property of another may be used  
12 in the course of committing the offense; and

13 “(2) ‘victim’ means an individual against whom  
14 an offense has been or is being committed.”.

15 SEC. 2. The table of sections for chapter 227 of title  
16 18, United States Code, is amended by adding at the end  
17 the following new item:

“3581. Mandatory sentence for felony against individual of age sixty-five or  
over.”.

18 SEC. 3. Section 3731 of title 18, United States Code,  
19 is amended by inserting after the second paragraph the  
20 following new paragraph:

21 “An appeal by the United States shall lie to a court  
22 of appeals from an otherwise final decision, judgment, or  
23 order of a district court sentencing a defendant on the

1 ground that such sentence is less severe than that required  
2 under section 3581 of this title.”.

3 SEC. 4. Rule 32(c) of the Federal Rules of Criminal  
4 Procedure is amended—

5 (1) by adding at the end of the first paragraph  
6 in paragraph (1) the following new sentence: “Nei-  
7 ther the defendant nor the court may waive a  
8 presentence investigation and report unless there is  
9 in the record information sufficient for the court to  
10 determine whether a mandatory sentence must be  
11 imposed pursuant to title 18, United States Code,  
12 section 3581.”; and

13 (2) in paragraph (2)(D), by inserting after “the  
14 offense” the following: “and information relating to  
15 whether any victim of the offense had attained age  
16 65 on the date that the offense was committed”.

17 SEC. 5. Rule 11(e)(1) of the Federal Rules of Crimi-  
18 nal Procedure is amended by striking out “The” after “*In*  
19 *General.*” and inserting in lieu thereof “Except as provided  
20 in title 18, United States Code, section 3581, the”.

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