

103^D CONGRESS
1ST SESSION

S. 468

To amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of probation or supervised release.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25 (legislative day, JANUARY 5), 1993

Mr. THURMOND introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of probation or supervised release.

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. IMPOSITION OF SENTENCE.**

4 Section 3553(a)(4) of title 18, United States Code,
5 is amended to read as follows:

6 “(4) the kinds of sentence and the sentencing
7 range established for—

1 “(A) the applicable category of offense
2 committed by the applicable category of defend-
3 ant as set forth in the guidelines issued by the
4 Sentencing Commission pursuant to section
5 994(a)(1) of title 28, United States Code, and
6 that are in effect on the date the defendant is
7 sentenced; or

8 “(B) in the case of a violation of probation
9 or supervised release, the applicable guidelines
10 or policy statements issued by the Sentencing
11 Commission pursuant to section 944(a)(3) of
12 title 28, United States Code;”.

13 **SEC. 2. TECHNICAL AMENDMENT TO MANDATORY CONDI-**
14 **TIONS OF PROBATION.**

15 Section 3563(a)(3) of title 18, United States Code,
16 is amended by striking “possess illegal controlled sub-
17 stances” and inserting “unlawfully possess a controlled
18 substance”.

19 **SEC. 3. REVOCATION OF PROBATION.**

20 (a) **IN GENERAL.**—Section 3565(a) of title 18, Unit-
21 ed States Code, is amended—

22 (1) in paragraph (2) by striking “impose any
23 other sentence that was available under subchapter
24 A at the time of the initial sentencing” and inserting
25 “resentence the defendant under subchapter A”; and

1 (2) by striking the last sentence.

2 (b) MANDATORY REVOCATION—Section 3565(b) of
3 title 18, United States Code, is amended to read as fol-
4 lows:

5 “(b) MANDATORY REVOCATION FOR POSSESSION OF
6 CONTROLLED SUBSTANCE OR FIREARM.—If the defend-
7 ant possesses—

8 “(1) a controlled substance in violation of the
9 condition set forth in section 3563(a)(3); or

10 “(2) a firearm, as such term is defined in sec-
11 tion 921 of this title, in violation of Federal law, or
12 otherwise violates a condition of probation prohibit-
13 ing the defendant from possessing a firearm,
14 the court shall revoke the sentence of probation and
15 resentence the defendant under subchapter A to a sen-
16 tence that includes a term of imprisonment.”.

17 **SEC. 4. SUPERVISED RELEASE AFTER IMPRISONMENT.**

18 Section 3583 of title 18, United States Code, is
19 amended—

20 (1) in subsection (d), by striking “possess ille-
21 gal controlled substance” and inserting “unlawfully
22 possess a controlled substance”;

23 (2) in subsection (e)—

1 (A) by striking “person” each place such
2 term appears in such subsection and inserting
3 “defendant”; and

4 (B) by amending paragraph (3) to read as
5 follows:

6 “(3) revoke a term of supervised release, and
7 require the defendant to serve in prison all or part
8 of the term of supervised release authorized by stat-
9 ute for the offense that resulted in such term of su-
10 pervised release without credit for time previously
11 served on postrelease supervision, if the court, pur-
12 suant to the Federal Rules of Criminal Procedure
13 applicable to revocation of probation or supervised
14 release, finds by a preponderance of the evidence
15 that the defendant violated a condition of supervised
16 release, except that a defendant whose term is re-
17 voked under this paragraph may not be required to
18 serve more than 5 years in prison if the offense that
19 resulted in the term of supervised release is a class
20 A felony, more than 3 years in prison if such offense
21 is a class B felony, more than 2 years in prison if
22 such offense is a class C or D felony, or more than
23 one year in any other case; or”;

24 (3) by striking subsection (g) and inserting the
25 following:

1 “(g) MANDATORY REVOCATION FOR POSSESSION OF
2 CONTROLLED SUBSTANCE OR FIREARM.—If the defend-
3 ant possesses—

4 “(1) a controlled substance in violation of the
5 condition set forth in subsection (d), or

6 “(2) a firearm, as such term is defined in sec-
7 tion 921 of this title, in violation of Federal law, or
8 otherwise violates a condition of supervised release
9 prohibiting the defendant from possessing a firearm,
10 the court shall revoke the term of supervised release and
11 require the defendant to serve a term of imprisonment not
12 to exceed the maximum term of imprisonment authorized
13 under subsection (e)(3).

14 “(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and
15 the defendant is required to serve a term of imprisonment
16 that is less than the maximum term of imprisonment au-
17 thorized under subsection (e)(3), the court may include
18 a requirement that the defendant be placed on a term of
19 supervised release after imprisonment. The length of such
20 a term of supervised release shall not exceed the term of
21 supervised release authorized by statute for the offense
22 that resulted in the original term of supervised release,
23 less any term of imprisonment that was imposed upon rev-
24 ocation of supervised release.

1 “(i) DELAYED REVOCATION.—The power of the court
2 to revoke a term of supervised release for violation of a
3 condition of supervised release, and to order the defendant
4 to serve a term of imprisonment and, subject to the limita-
5 tions in subsection (h), a further term of supervised re-
6 lease, extends beyond the expiration of the term of super-
7 vised release for any period reasonably necessary for the
8 adjudication of matters arising before its expiration if, be-
9 fore its expiration, a warrant or summons has been issued
10 on the basis of an allegation of such a violation.”.

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