

108TH CONGRESS  
1ST SESSION

# H. R. 2213

To study the incidence of downward departures in criminal cases and repeal provisions of the PROTECT Act that do not specifically deal with the prevention of the exploitation of children.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2003

Mr. CONYERS (for himself, Mr. BERMAN, Mr. DELAHUNT, Mr. WATT, Ms. WATERS, Ms. JACKSON-LEE of Texas, Ms. LINDA T. SÁNCHEZ of California, Mr. SANDERS, Ms. LEE, Mr. McDERMOTT, Mr. FILNER, Ms. MILLENDER-McDONALD, Mrs. JONES of Ohio, and Mr. HONDA) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To study the incidence of downward departures in criminal cases and repeal provisions of the PROTECT Act that do not specifically deal with the prevention of the exploitation of children.

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 “Judicial Use of Discre-  
5 tion to Guarantee Equity in Sentencing Act of 2003” or  
6 “JUDGES Act”.

1 **SEC. 2. A REPORT ON THE INCIDENCE OF DOWNWARD DE-**  
2 **PARTURES.**

3 (a) REPORT REQUIRED.—Not later than 180 days  
4 after the date of the enactment of this Act, the United  
5 States Sentencing Commission shall submit to Congress  
6 a report on the incidence of downward departures from  
7 the United States Sentencing Guidelines.

8 (b) CONTENT OF REPORT.—The report required by  
9 subsection (a) shall include—

10 (1) a discussion of the history and purpose of  
11 departures in the Federal sentencing guideline sys-  
12 tem;

13 (2) information on rates of departures from the  
14 sentencing guidelines, including information on vari-  
15 ations in departure rates among different districts  
16 and judicial circuits, and among different offense  
17 and departure types, and an assessment of the fac-  
18 tors that may account for these variations;

19 (3) an analysis of the grounds provided by dis-  
20 trict court judges when they depart from the guide-  
21 lines, and whether the Commission should adopt  
22 guidelines or policy statement to prohibit, encourage,  
23 or discourage departures based on such grounds;

24 (4) a review of departure appeals, including  
25 trends in the number and disposition of departure  
26 appeals;

1           (5) a comparison of the departure authority in  
2 Federal law with the departure authority in State  
3 sentencing guideline systems;

4           (6) an assessment of the extent to which departures from the sentencing guidelines circumvent or  
5 promote operation of the sentencing guidelines system;  
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8           (7) an assessment of the extent to which departures from the sentencing guidelines undermine or  
9 promote the purposes of sentencing as set forth in  
10 section 3553(a)(2) of title 18, United States Code;

11           (8) an assessment of variations in the magnitude of departures and the frequency with which  
12 the final sentences result in imprisonment, intermediate conditions of confinement, or release;  
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15           (9) an assessment of the extent to which existing mechanisms to review departures from the sentencing guidelines are sufficient to ensure that the  
16 purposes of sentencing referred to in paragraph (7) are achieved; and  
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19           (10) any other information, assessments, or recommendations that the Commission considers to be  
20 appropriate.  
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22           (c) PUBLIC HEARING.—In preparing the report, the  
23 Commission shall—  
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1           (1) hold at least one public hearing on the sub-  
2           ject of guideline departures; and

3           (2) solicit the views of the Federal judiciary,  
4           the Department of Justice, the defense bar, and  
5           other interested parties.

6 **SEC. 3. REPEAL OF NONCONFORMING PROVISIONS.**

7           Subsections (c) through (h), and (j) through (n) of  
8           section 401 the Prosecutorial Remedies and Other Tools  
9           to end the Exploitation of Children Today Act of 2003,  
10          or the PROTECT Act, are repealed, and shall be treated  
11          as though those subsections and the amendments made  
12          by those subsections had never taken effect.

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