

Union Calendar No. 256

103^D CONGRESS
2^D SESSION

H. R. 3981

[Report No. 103-463]

A BILL

To provide mandatory life imprisonment for persons convicted of a third violent felony.

MARCH 25, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 1994

Mr. SCHUMER (by request) (for himself, Mr. HOYER, Mr. MAZZOLI, Mr. GLICKMAN, Mr. SANGMEISTER, Mr. MANN, Mr. MCCOLLUM, Mr. RAMSTAD, Mr. LIVINGSTON, Mr. ROYCE, Mr. MANTON, and Mrs. BYRNE) introduced the following bill; which was referred to the Committee on the Judiciary

MARCH 25, 1994

Additional sponsors: Mr. POMEROY and Ms. SHEPHERD

MARCH 25, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 8, 1994]

A BILL

To provide mandatory life imprisonment for persons convicted of a third violent felony.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. IMPRISONMENT OF CERTAIN VIOLENT FELONS.**

2 *Section 3559 of title 18, United States Code, is amend-*
3 *ed—*

4 *(1) in subsection (b), by striking “An” and in-*
5 *serting “Except as provided in subsection (c), an” in*
6 *lieu thereof; and*

7 *(2) by adding the following new subsection at the*
8 *end:*

9 *“(c) IMPRISONMENT OF CERTAIN VIOLENT FELONS.—*

10 *“(1) MANDATORY LIFE IMPRISONMENT.—Not-*
11 *withstanding any other provision of law, a person*
12 *who is convicted in a court of the United States of*
13 *a serious violent felony shall be sentenced to life im-*
14 *prisonment if—*

15 *“(A) the person has been convicted (and*
16 *those convictions have become final) on 2 or*
17 *more prior occasions in a court of the United*
18 *States or of a State of—*

19 *“(i) a serious violent felony; or*

20 *“(ii) one or more serious violent felo-*
21 *nies and one or more serious drug offenses;*
22 *and*

23 *“(B) each serious violent felony or serious*
24 *drug offense used as a basis for sentencing under*
25 *this subsection, other than the first, was commit-*

1 *ted after the defendant's conviction of the preced-*
2 *ing serious violent felony or serious drug offense.*

3 “(2) *DEFINITIONS.*—*For purposes of this sub-*
4 *section—*

5 “(A) *the term ‘assault with intent to com-*
6 *mit rape’ means an offense that has as its ele-*
7 *ments engaging in physical conduct by which a*
8 *person intentionally places another person in*
9 *fear of aggravated sexual abuse or sexual abuse*
10 *(as described in sections 2241 and 2242 of this*
11 *title);*

12 “(B) *the term ‘arson’ means an offense that*
13 *has as its elements maliciously damaging or de-*
14 *stroying any building, inhabited structure, vehi-*
15 *cle, vessel, or real property by means of fire or*
16 *an explosive;*

17 “(C) *the term ‘extortion’ means an offense*
18 *that has as its elements the extraction of any-*
19 *thing of value from another person by threaten-*
20 *ing or placing that person in fear of injury to*
21 *any person or kidnapping of any person;*

22 “(D) *the term ‘firearms use’ means an of-*
23 *fense that has as its elements those described in*
24 *section 924(c) or 929(a) of this title, if the fire-*
25 *arm was brandished, discharged, or otherwise*

1 *used as a weapon and the crime of violence or*
2 *drug trafficking crime during and relation to*
3 *which the firearm was used was subject to pros-*
4 *ecution in a court of the United States or a*
5 *court of a State, or both;*

6 “(E) the term ‘kidnapping’ means an of-
7 fense that has as its elements the abduction, re-
8 straining, confining, or carrying away of an-
9 other person by force or threat of force;

10 “(F) the term ‘serious violent felony’
11 means—

12 “(i) a Federal or State offense, by
13 whatever designation and wherever commit-
14 ted, consisting of murder (as described in
15 section 1111 of this title); manslaughter
16 other than involuntary manslaughter (as
17 described in section 1112 of this title); as-
18 sault with intent to commit murder (as de-
19 scribed in section 113(a) of this title); as-
20 sault with intent to commit rape; aggra-
21 vated sexual abuse and sexual abuse (as de-
22 scribed in sections 2241 and 2242 of this
23 title); abusive sexual contact (as described
24 in sections 2244(a)(1) and (a)(2) of this
25 title); kidnapping; aircraft piracy (as de-

1 *scribed in section 902(i)(2) or 902(n)(2) of*
2 *the Federal Aviation Act of 1958); robbery*
3 *(as described in section 2111 of this title);*
4 *carjacking (as described in section 2119 of*
5 *this title); extortion; arson; firearms use; or*
6 *attempt, conspiracy, or solicitation to com-*
7 *mit any of the above offenses; or*

8 “(ii) *any other offense punishable by a*
9 *maximum term of imprisonment of 10*
10 *years or more that has as an element the*
11 *use, attempted use, or threatened use of*
12 *physical force against the person of another*
13 *or that, by its nature, involves a substantial*
14 *risk that physical force against the person*
15 *of another may be used in the course of*
16 *committing the offense;*

17 “(G) *the term ‘State’ means a State of the*
18 *United States, the District of Columbia, or any*
19 *commonwealth, territory, or possession of the*
20 *United States; and*

21 “(H) *the term ‘serious drug offense’*
22 *means—*

23 “(i) *an offense subject to a penalty pro-*
24 *vided for in section 401(b)(1)(A) or 408 of*
25 *the Controlled Substances Act or section*

1 1010(b)(1)(A) of the Controlled Substances
2 Import and Export Act; or

3 “(ii) an offense under State law that,
4 had the offense been prosecuted in a court of
5 the United States, would have been subject
6 to a penalty provided for in section
7 401(b)(1)(A) or 408 of the Controlled Sub-
8 stances Act or section 1010(b)(1)(A) of the
9 Controlled Substances Import and Export
10 Act.

11 “(3) NONQUALIFYING FELONIES.—

12 “(A) ROBBERY IN CERTAIN CASES.—Rob-
13 bery, an attempt, conspiracy, or solicitation to
14 commit robbery; or an offense described in para-
15 graph (2)(F)(ii) shall not serve as a basis for
16 sentencing under this subsection if the defendant
17 establishes by clear and convincing evidence
18 that—

19 “(i) no firearm or other dangerous
20 weapon was involved in the offense; and

21 “(ii) the offense did not result in death
22 or serious bodily injury (as defined in sec-
23 tion 1365) to any person.

24 “(B) ARSON IN CERTAIN CASES.—Arson
25 shall not serve as a basis for sentencing under

1 *this subsection if the defendant establishes by*
2 *clear and convincing evidence that.—*

3 *“(i) the offense posed no threat to*
4 *human life; and*

5 *“(ii) the defendant reasonably believed*
6 *the offense posed no threat to human life.*

7 *“(4) INFORMATION FILED BY UNITED STATES AT-*
8 *TORNEY.—The provisions of section 411(a) of the*
9 *Controlled Substances Act (21 U.S.C. 851(a)) shall*
10 *apply to the imposition of sentence under this sub-*
11 *section.*

12 *“(5) RULE OF CONSTRUCTION.—This subsection*
13 *shall not be construed to preclude imposition of the*
14 *death penalty.*

15 *“(6) SPECIAL PROVISION FOR INDIAN COUN-*
16 *TRY.—No person subject to the criminal jurisdiction*
17 *of an Indian tribal government shall be subject to this*
18 *subsection for any offense for which Federal jurisdic-*
19 *tion is solely predicated on Indian country as defined*
20 *in section 1151 of this title and which occurs within*
21 *the boundaries of such Indian country unless the gov-*
22 *erning body of the tribe has elected that this sub-*
23 *section have effect over land and persons subject to the*
24 *criminal jurisdiction of the tribe.*

1 “(7) *RESENTENCING UPON OVERTURNING OF*
2 *PRIOR CONVICTION.*—*If the conviction for a serious*
3 *violent felony which was a basis for sentencing under*
4 *this subsection is found, pursuant to any appropriate*
5 *State or Federal procedure, to be unconstitutional or*
6 *is vitiated on the explicit basis of innocence, or if the*
7 *convicted person is pardoned on the explicit basis of*
8 *innocence, the person serving a sentence imposed*
9 *under this subsection shall be resentenced to any sen-*
10 *tence that was available at the time of the original*
11 *sentencing.*”

12 **SEC. 2. LIMITED GRANT OF AUTHORITY TO BUREAU OF**
13 **PRISONS.**

14 *Section 3582(c)(1)(A) of title 18, United States Code,*
15 *is amended—*

16 (1) *so that the margin of the matter starting*
17 *with “extraordinary” and ending with “reduction”*
18 *the first place it appears is indented an additional 2-*
19 *ems;*

20 (2) *by inserting a one-em dash after “that” the*
21 *second place it appears;*

22 (3) *by inserting a semicolon after “reduction”*
23 *the first place it appears;*

1 (4) *by indenting the first line of the matter re-*
2 *ferred to in paragraph (1) and designating that mat-*
3 *ter as clause (i); and*

4 (5) *by inserting after such matter the following:*

5 “(ii) *the defendant is at least 70 years*
6 *of age, has served at least 30 years in pris-*
7 *on, pursuant to a sentence imposed under*
8 *section 3559(c) of this title, for the offense*
9 *or offenses for which the defendant is cur-*
10 *rently imprisoned, and a determination has*
11 *been made by the Director of the Bureau of*
12 *Prisons that the defendant is not a danger*
13 *to the safety of any other person or the com-*
14 *munity, as provided under section 3142(g)*
15 *of this title;”.*