

(12) The Members of the Board of Directors of the National Consumer Cooperative Bank (3 Members).

(13) The Members of the Board of Directors of the National Institute of Building Sciences (6 Members).

(14) The Members of the Board of Directors of the Securities Investor Protection Corporation (5 Members).

(15) The Members of the Board of Directors of the Metropolitan Washington Airport Authority (3 Members).

(16) The Members of the Saint Lawrence Seaway Development Corporation Advisory Board (5 Members).

(17) The Members of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (9 Members).

(18) The Members of the Board of Trustees of the Federal Hospital Insurance Trust Fund (2 Members).

(19) The Members of the Board of Trustees of the Federal Old Age and Survivors Trust Fund and Disability Insurance Trust Fund (2 Members).

(20) The Members of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund (2 Members).

(21) The Members of the Social Security Advisory Board (3 Members).

(22) The Members of the Board of Directors of the African Development Foundation (7 Members).

(23) The Members of the Board of Directors of the Inter American Foundation (9 Members).

(24) The Commissioners of the United States Advisory Commission on Public Diplomacy (7 Members).

(25) The Members of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation (8 Members).

(26) The Members of the Board of Trustees of the Harry Truman Scholarship Foundation (8 Members).

(27) The Members of the Board of Trustees of the James Madison Memorial Fellowship Foundation (6 Members).

(28) The Members of the Board of Directors of the Legal Services Corporation (11 Members).

(29) The Members of the Foreign Claims Settlement Commission (2 Members).

(30) The Members of the Board of Directors of the State Justice Institute (11 Members).

(31) Chief Financial Officer, from the following:

- (A) Department of Agriculture.
- (B) Department of Commerce.
- (C) Department of Defense.
- (D) Department of Education.
- (E) Department of Energy.
- (F) Department of Environmental Protection Agency.
- (G) Department of Health and Human Services.
- (H) Department of Homeland Security.
- (I) Department of Housing and Urban Development.
- (J) Department of the Interior.
- (K) Department of Labor.
- (L) National Aeronautics and Space Administration.
- (M) Department of State.
- (N) Department of Transportation.
- (O) Department of the Treasury.
- (P) Department of Veterans Affairs.

(32) Assistant Secretary for Financial Management of the Air Force.

(33) Assistant Secretary for Financial Management of the Army.

(34) Assistant Secretary for Financial Management of Navy.

(35) Controller, Office of Federal Financial Management, Office of Management and Budget.

(36) Assistant Secretaries or other officials whose primary responsibility is legislative affairs from the following:

- (A) Department of Agriculture.
- (B) Department of Energy.
- (C) Department of Defense.
- (D) Department of Housing and Urban Development.
- (E) Department of Commerce.
- (F) Department of Treasury.
- (G) Department of State.
- (H) Department of Health and Human Services.
- (I) United States Agency for International Development.
- (J) Department of Education.
- (K) Department of Labor.
- (L) Department of Justice.
- (M) Department of Veterans Affairs.
- (N) Department of Transportation.
- (37) Commissioner, Rehabilitative Services Administration, Department of Education.
- (38) Commissioner, Administration for Children, Youth, and Families, Department of Health and Human Services.
- (39) Commissioner, Administration for Native Americans, Department of Health and Human Services.
- (40) Federal Coordinator, Alaska Natural Gas Transportation Projects.
- (41) Assistant Secretary for Administration, Department of Commerce.

SEC. 3. EXECUTIVE CALENDAR.

The Secretary of the Senate shall create the appropriate sections on the Executive Calendar to reflect and effectuate the requirements of this resolution.

SEC. 4. COMMITTEE JUSTIFICATION FOR NEW EXECUTIVE POSITIONS.

The report accompanying each bill or joint resolution of a public character reported by any committee shall contain an evaluation and justification made by such committee for the establishment in the measure being reported of any new position appointed by the President within an existing or new Federal entity.

SEC. 5. EFFECTIVE DATE.

This resolution shall take effect 60 days after the date of adoption of this resolution.

Mr. KERRY. Mr. President, I want to reduce the amount of duplication and overlap in federal agencies and I am prepared to vote to eliminate duplicative programs. That is my responsibility as a Senator. However, I believe this must be done in a responsible manner and not passed off to a third party. I opposed the Coburn amendment because it would cause needless delay to the consideration of important legislation by the Senate. It would give additional power to the staff of the Congressional Research Service. It would increase Congressional spending when we are working to reduce our Federal budget deficit and our Federal debt.

The amendment would change the Standing Rules of the Senate to require the Congressional Research Service—CRS—to complete a study to examine the potential for duplicative programs for every bill that is passed out of committee before it is in order to be considered by the full Senate.

This amendment will not end duplication of government programs. But it will make it more difficult for the Senate to do the Nation's business. The Coburn amendment will allow any Senator to block floor consideration of a bill if the CRS assessment has not been completed. The amendment does not

place any time limits on the CRS to make the assessment of whether the programs included in legislation are duplicative. The amendment does not define key terms such as "program" or "initiative" that are crucial to performing the assessment.

The amendment states that every bill that comes to the floor must contain a full evaluation and report by CRS. The CRS report must examine every potential Federal program that might overlap with the one proposed.

How long would CRS have to do such a report? I don't know because the amendment does not include time limits for the CRS to provide these reports. Therefore, CRS could block consideration of important legislation by simply not meeting its responsibilities.

We have always been very careful in making changes to the Standing Rules of the Senate. This proposal has not come before the Rules Committee in any way and thus has not been considered or vetted by the committee of jurisdiction. If we are serious about such a change, it should receive the appropriate review before being adopted.

The PRESIDING OFFICER. The Senator from Hawaii.

MORNING BUSINESS

Mr. INOUE. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business for debate only until 8 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR SENTENCING ACT GUIDELINE AMENDMENT

Mr. DURBIN. Mr. President, the bipartisan United States Sentencing Commission was created by Congress to establish guidelines that are used by Federal judges when they sentence criminal defendants. Tomorrow, the Sentencing Commission will take an important vote. The Commission is considering whether to apply retroactively the sentencing guideline amendment implementing the Fair Sentencing Act of 2010. As the lead sponsor of the Fair Sentencing Act, I urge the Commission to apply this amendment retroactively.

Just last year, Democrats and Republicans joined together to pass the Fair Sentencing Act, bipartisan legislation that reduced the disparity between crack and powder cocaine sentencing.

For more than 20 years, we had a 100-to-1 crack-powder sentencing disparity. It took 100 times more powder cocaine than crack cocaine to trigger the same harsh mandatory minimum sentences. Simply possessing 5 grams of crack carried the same penalty as selling 500 grams of powder.

This disparity was one of the most significant causes of unequal incarceration rates between African Americans and Caucasians. The following statistic

is chilling: In this country, African Americans are incarcerated at approximately six times the rate of Caucasians.

The Fair Sentencing Act dramatically reduced the 100-to-1 disparity. Last November, the Sentencing Commission issued amended sentencing guidelines that put into effect the Fair Sentencing Act's reduced crack sentences. These guidelines will be used by Federal judges across the country in every drug sentencing.

The Commission is now deciding whether to apply these more equitable guidelines retroactively to those who have already been sentenced and are in prison. I sent a letter, joined by Judiciary Committee Chairman PATRICK LEAHY, and Senators FRANKEN and COONS, urging the Commission to vote for retroactivity.

Let's be clear about the bottom line: If the Commission does not make its amendment retroactive, thousands of people will continue to serve prison sentences that Congress has determined are unfair and disproportionately punitive to African Americans. Thousands of individuals sentenced before November 1 of last year would remain subject to our old, racially disparate sentencing scheme. Yet those who happened to be sentenced on or after November 1 could receive significantly reduced prison terms—even if they engaged in exactly the same conduct.

This is inconsistent with the goals of the Fair Sentencing Act—reducing disparities in drug sentencing, increasing trust in the justice system, and focusing limited resources on serious offenders. In effect, it would say: “The U.S. government is OK with you continuing to serve a sentence we've acknowledged is unfair—and most unfair to those with your color of skin.”

Now, opponents of retroactivity have made all sorts of arguments in an effort to muddy the water and push their own conservative sentencing agenda. They have suggested that because the Fair Sentencing Act did not explicitly address retroactivity, the sentencing guidelines shouldn't be retroactive. This is an obvious attempt to confuse apples and oranges.

To be clear: We are not talking about whether the statute itself—the Fair Sentencing Act—should be applied retroactively. That is a different question for a different day—and one that affects many more issues and many more inmates. We are talking about the Sentencing Commission exercising its own independent, expert authority to make its own guideline amendments retroactive.

Opponents of retroactivity also claim that the Sentencing Commission is overstepping its bounds by considering retroactivity. But this is the standard administrative process, and one that Congress designed to be left to the Sentencing Commission. The Commission has routinely applied its amendments retroactively—many, many times be-

fore. And it has voted for retroactivity virtually every time it has amended the guidelines to reduce drug sentences. In fact, Congress expressly gave the Commission the authority to make amendments to the sentencing guidelines apply retroactively.

Retroactivity makes practical and economic sense. Our Federal prison system is 37 percent over capacity. Inmates are being double and even triple bunked. Applying the Fair Sentencing Act guideline amendment retroactively could reduce prison overcrowding dramatically and result in up to \$1 billion in savings for taxpayers. Approximately 12,000 individuals—who are prescreened by judges—would be eligible for an average sentence reduction of 37 months. The average cost to house a Federal prisoner is \$28,284 per year. Taxpayer savings would be about \$87,000 for each inmate.

History also tells us retroactivity makes sense. In 2007, the Commission made retroactive a similar amendment to reduce crack sentences. Thousands more defendants were eligible then for reductions than would be eligible now. Yet motions for reduced sentences were handled smoothly.

The Department of Justice supports guideline retroactivity and the Bureau of Prisons has implemented a plan to carry out the logistics. The Criminal Law Committee of the Judicial Conference of the United States, comprised of judges from every Federal circuit, unequivocally supports retroactivity.

Opponents simply ignore the history and have used scare tactics to raise misleading questions of public safety. Retroactivity does not automatically entitle a defendant to a sentence reduction. A Federal judge would have discretion to decide in every single case whether a reduction is appropriate. If it is not—because of the facts of a case or concerns about an individual defendant—no reduction will be given. Period. All judges are actually required to consider public safety when making a decision. Moreover, on the back end, the Bureau of Prisons has said that it “is prepared to take measures to ensure that offenders released due to retroactive application . . . are transitioned effectively back into the community.”

In short the Sentencing Commission should use the expert discretion Congress granted it to apply its amendment retroactively to each defendant subject to a sentencing scheme Congress determined was unjust. I hope the Commission does the right thing and applies retroactively the sentencing guideline amendment implementing the Fair Sentencing Act.

Retroactivity would bolster respect for our justice system, help correct the unfairness of a racially disparate sentencing scheme, and save resources for taxpayers while heeding concerns of public safety.

REMEMBERING TRACY T. “TOM” ARFLIN

Mr. McCONNELL. Mr. President, I rise today to note the loss of an honored and distinguished Kentuckian. Mr. Tracy T. Arflin of Radcliff, KY, passed away this June 18. He was 74 years old.

Mr. Arflin went by “Tom,” but was also known to generations of Radcliff-area youth as “Coach.” Tom Arflin dedicated the last 32 years of his life to volunteering on behalf of youth sports in his hometown. He was the manager of the Rangers in the Radcliff Baseball/Softball Association, and coached two teams, the Eagles and the Jaguars, in the North Hardin Youth Football League. He had both a football and a baseball field named after him, and was the North Hardin Youth Football League president for the past 21 years.

Mr. Arflin's job as coach included the roles of mentor, leader, and league developer. He not only inspired many kids who may not have thought they were cut out for sports to stick with it, he also encouraged many parents to volunteer their time as coaches. Some of them are still at it even after their children have grown out of youth league play because of Tom Arflin's example.

Tom Arflin was also a U.S. Army veteran who proudly served for 27 years, including two tours in Vietnam. For the past 42 years he was a member of Mill Creek Baptist Church in Radcliff.

This May Tom was diagnosed with brain cancer and underwent radiation treatments. A few weeks before his passing, Tom's son Tracy T. Arflin II organized a grand community celebration for his father, and more than 100 family members, friends, and former and current coaches and players gathered to honor Tom Arflin for his many decades of service.

Tom was preceded in death by his wife of 49 years, Louise C. Arflin, and by his sister, Anna. Surviving members of his family who are mourning Tom's loss include his son and daughter-in-law, Tracy T. Arflin II and Sharon; his grandson, Matthew T. Arflin; his sister, Lucy Webb; and his brother, Billy Arflin. I wish to express my deepest condolences to the family and friends of Tracy T. “Tom” Arflin for the loss of this wonderful man.

Mr. President, the Hardin County News-Enterprise recently published an article about Tom Arflin and the community celebration thrown in his honor. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed, as follows:

[From the News-Enterprise, June 5, 2011]

YOUTH SPORTS: ARFLIN RECEIVES COMMUNITY CELEBRATION

(By John Groth)

Tracy Arflin wanted to give his father, Tom, one more major recognition.

His dad has spent decades building up the North Hardin Youth Football League. And now as his father's coaching career winds down, he wanted to hold a special community celebration.