



**CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE**

March 19, 2010

**S. 1789**  
**Fair Sentencing Act of 2010**  
*As passed by the Senate on March 17, 2010*

**SUMMARY**

CBO estimates that implementing S. 1789 would lead to reduced spending for the federal prison system totaling \$42 million over the 2011-2015 period, assuming a reduction in the future amounts appropriated to that agency. Enacting the bill could affect direct spending and revenues; therefore, pay-as-you-go procedures would apply to the legislation, but CBO estimates that any such effects would not be significant.

S. 1789 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

**ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of S. 1789 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars					2011- 2015
	2011	2012	2013	2014	2015	
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>						
Estimated Authorization Level	-1	-6	-12	-13	-10	-42
Estimated Outlays	-1	-6	-12	-13	-10	-42

## **BASIS OF ESTIMATE**

For this estimate, CBO assumes that S. 1789 will be enacted by the end of fiscal year 2010 and that future appropriations are provided consistent with the bill's change in prison sentencing requirements.

### **Spending Subject to Appropriation**

Under current law, persons convicted of drug trafficking offenses involving crack cocaine or powder cocaine are subject to mandatory minimum prison sentences, but the drug quantity necessary to trigger the minimum sentence is lower for crack cocaine. S. 1789 would raise the quantity of crack cocaine necessary to trigger the minimum sentence.

The U.S. Sentencing Commission analyzed the bill's net impact on the federal prison population. Based on this analysis, CBO estimates that the modified sentences required under the bill would decrease the prison population by 1,550 person-years over the 2011-2015 period. (A person-year measures the incarceration of one person for a full year.) According to the Bureau of Prisons, a decrease in the federal prison population of this magnitude would save about \$27,000 per person per year for avoided incarceration time. CBO estimates that the savings from implementing S. 1789 would total \$42 million over the 2011-2015 period.

S. 1789 also would direct the Government Accountability Office to prepare a report on the effectiveness of a Department of Justice grant program to treat nonviolent drug offenders. CBO estimates that it would cost less than \$500,000 from appropriated funds to complete this report.

### **Revenues and Direct Spending**

S. 1789 would increase fines for certain offenses involving controlled substances; therefore, the federal government might collect more fines if the bill is enacted. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent. CBO estimates that any net effects would not be significant in each year because of the small number of cases likely to be affected.

**PAY-AS-YOU-GO CONSIDERATIONS**

The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

**CBO Estimate of the Statutory Pay-As-You-Go Effects for S. 1789, the Fair Sentencing Act of 2010, as passed by the Senate on March 17, 2010**

	By Fiscal Year, in Millions of Dollars												2010-	2010-
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2015	2020	
<b>NET INCREASE OR DECREASE (-) IN THE DEFICIT</b>														
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	0	0	0	0	0	0	

**INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT**

S. 1789 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

**PREVIOUS CBO ESTIMATE**

On September 1, 2009, CBO transmitted a cost estimate for H.R. 3245, the Fairness in Cocaine Sentencing Act of 2009, as ordered reported by the House Committee on the Judiciary on July 29, 2009. That bill would provide equal punishment for all cocaine offenses but does not contain a provision directing the Sentencing Commission to implement new sentencing guidelines as soon as practicable. Based on the commission’s analysis of the bill’s effect on the federal prison population, CBO estimated that implementing H.R. 3245 would lead to reduced spending by the federal prison system of \$3 million over the 2010-2014 period.

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