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# Congress Rekindles Battle on Mandatory Sentences

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WASHINGTON, May 10 - Just months after the Supreme Court struck down federal sentencing formulas, the House is moving to institute new mandatory minimum sentences, beginning with a sweeping bill to fight street gangs.

The bill, which the House is expected to approve on Wednesday, would greatly increase federal penalties for gang-related crimes. It would change the definition of a criminal street gang to three people who have committed at least two crimes together, at least one of them violent, from five.

Also pending is a bill passed by the House Judiciary Committee that would apply much harsher mandatory minimums to federal drug offenses. A third bill intended to protect judicial officials would establish mandatory minimum sentences for courthouse crimes.

"It makes a huge difference with the courts throwing out the mandatory sentences," said Representative J. Randy Forbes, Republican of Virginia and sponsor of the gang bill. "Because that is the only way we know of that you are going to be able to come to one of the criminals and say, 'This is what you are going to face.' "

The new push on sentencing adds a front to an escalating battle over the balance of power between Congress and the courts. In the last few months, Congressional conservatives have attacked the "unaccountable" courts over the failure to intervene in the Terri Schiavo case, the citation of foreign precedents, and rulings on abortion and other social issues.

In returning to the subject of mandatory minimums, conservatives are reviving an emotional issue that has simmered since at least the 1970's, when President Richard M. Nixon campaigned against liberals who were "soft on crime."

Earlier this year, the Supreme Court overturned Congressional efforts to require that judges issue stiff minimum sentences according to guidelines and formulas for crimes like drug dealing or repeat offenses. But the court has never questioned the power of Congress to pass legislation requiring minimum sentences for given crimes, and that is what conservatives in the House are now trying to do.

The re-emergence of mandatory minimum sentences has drawn vocal opposition from civil rights advocates and human rights groups, who argue that they are unfair and ineffective. It also runs counter to repeated statements from the United States Sentencing Commission, an arm of the judiciary created by Congress to monitor criminal penalties, that mandatory minimum sentences are too clumsy to address individual cases.

"Mandatory minimums waste taxpayer money," said Representative Robert C. Scott, Democrat of Virginia and the leading opponent of the gang bill. "It also has a discriminatory effect: African-Americans for the same or similar crimes get stuck with mandatory minimums more often than whites."

Under the gang bill, a sentence of at least 10 years would be required for an act of violence; at least 20 years for serious assaults; and at least 30 years for kidnapping, aggravated sexual abuse or maiming. The bill would demand life imprisonment or the death penalty for any crime resulting in death, and would also impose adult penalties on some juvenile gang members.

Over the next five years, the legislation would also allocate \$250 million to pay for federal law enforcement efforts to fight gangs, \$100 million to help finance state and local police efforts, and \$37.5 million to add 94 lawyers to the Justice Department to prosecute the crimes.

The prospects for the measure in the Senate are uncertain, but opponents concede that as an anti-gang bill nicknamed "gangbusters" it is likely to pass in some form.

Supporters of the bill say it is needed to fight violence by networks of young criminals that stretch across state and national borders. The Justice Department estimates that there are 750,000 gang members in the United States.

Immigration authorities recently arrested more than 100 members of an especially violent Latin American street gang that was started in Los

Angeles, MS-13. "They have a board of directors outside the prisons," Mr. Forbes said, "and a board of directors inside the prisons."

The stiff mandatory minimums are essential, the supporters say, because they give prosecutors an effective tool to persuade gang members to cooperate with investigations. "To do a year or two in jail means very little to some of these gang members," Mr. Forbes said.

Mr. Forbes argued that critics who say jail time only turns juvenile offenders into hardened criminals overlooked the potential for keeping them behind bars when they are most likely to commit crimes.

"The crime-probability ages are 15- to 24-year-olds," he said, "and if you take the person off the streets for that period then the statistics go enormously away in terms of perpetrating additional crimes."

Opponents, however, argue that because prosecutors and judges need no prodding to punish the most egregious offenders with the most severe penalties, the mandatory sentences would fall mainly on lesser offenders. "If it makes sense, you don't need it. But when it doesn't make sense, it kicks in," Mr. Scott said.

Mr. Scott argued that experts, including some at the conservative Heritage Foundation, said social programs were more effective at reducing gang activity.

But Jim Pasco, the executive director of the Fraternal Order of Police, argued that the effect of longer sentences was "common sense." "The idea," he said, "that we are somehow going to deter these especially violent young criminals, who sadly generally live lives in squalor anyway, with 90 days on a prison farm is wacky."

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