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Chaos Over Sentencing Guidelines

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A recent U.S. Supreme Court ruling that found sentencing guidelines in Washington state unconstitutional has disrupted many of the nation's federal courts. Judges and prosecutors are moving away from the federal guidelines out of concerns that they are also unconstitutional, the Wall Street Journal reported July 14.

The ruling states that a jury, not a judge, must decide whether to increase a criminal sentence based on the relevant conduct of the offender. Although the ruling applies only to sentencing guidelines in Washington state, federal guidelines are similar.

Following the high-court ruling, the U.S. Justice Department ordered prosecutors of federal crimes to comply with the court's decision. As a result, defense attorneys are questioning the sentencing of tens of thousands of federal defendants with the hopes of getting their long sentences thrown out. Justice Sandra Day O'Connor, who voted against the ruling, had voiced concerns over just such a scenario unfolding.

Congress is drafting a bill that would fix the problem while lawmakers, prosecutors, and the courts settle on a permanent solution. "The criminal justice system has begun to run amok," said Sen. Orrin Hatch (R-Utah), chairman of the U.S. Senate Judiciary Committee.

The bill is based on a recommendation by Frank Bowman III, a former federal prosecutor who is currently a law professor at Indiana University. His idea is to remove sentencing ranges and replace them with the legal maximum for the crime. In doing so, judges wouldn't have to justify giving a tougher sentence as long as they were below the legal maximum.

In the past two decades, Congress has passed laws setting mandatory minimum sentences for certain crimes, in particular those involving drugs. With mandatory minimums, judges have no discretion to order shorter or longer sentences.

The Justice Department has also asked that the Supreme Court clarify its ruling on whether the Washington state principle applies to federal courts.