

Eliminating Mandatory Minimums Act

S6471 (MYRIE)/ A2036A (MEEKS)

WHY?

Mandatory minimum sentences limit judges' ability to tailor sentences to the specific circumstances of a case, and, instead, force them to impose excessive sentences that are wasteful, counterproductive, and undermine effective and data-driven approaches to public safety.

In many cases, judges cannot issue appropriate sentences below a statutory mandatory minimum even in light of important and mitigating factors, such as whether or not someone is struggling with substance use or mental health concerns, elderly, or responsible for caring for family members or loved ones. Every year of incarceration in New York's prison system costs taxpayers almost \$100,000 per year.

A relic of the 1970s, mandatory minimums force one-size-fits-all punishments that drive up the number of guilty pleas and the length of prison sentences, despite recent research that these long sentences do not increase public safety.¹ Based on this research and a growing understanding of the harms of mandatory minimum sentences, Republican and Democrat run states, as well as the federal government under President Obama and President Trump, have advanced significant reforms to rollback the use of mandatory minimums.

SUMMARY

The Eliminating Mandatory Minimums Act would eliminate mandatory minimum sentencing and restore judges' ability to consider individual factors in every case when deciding on an appropriate sentence. Specifically, the Eliminating Mandatory Minimums Act would:

- Eliminate mandatory minimum sentences across the board, restore judicial discretion, and allow—but not require—judges to impose a non-prison sentence;
- Eliminate two- and three-strike sentencing, which tie judges' hands and lead to excessive sentences;
- Make no changes to maximum sentences, leaving judges the discretion to sentence people up to the current statutory maximum allowable sentences;
- Make other changes to right-size sentences; and
- Apply prospectively only, meaning these changes would not impact people who are already in prison or who are sentenced before the enactment of the legislation.

IMPACT

- Of the approximately 31,000 people incarcerated in New York prisons, an estimated 51% are currently serving a mandatory minimum sentence. Although these individuals would not be impacted by the current legislation, the repeal of mandatory minimums has the potential to safely and significantly impact the overall prison population in the future.
- Using 2019 numbers as a baseline, the Center for Court Innovation (CCI) estimates that, in NYC alone, eliminating mandatory minimums would prevent people involved in over 21,000 cases from being charged with offenses carrying mandatory minimums, mitigating the risk of coerced guilty pleas, and people involved in over 5,000 cases from facing mandatory minimums after conviction.²
- The Eliminating Mandatory Minimums Act would represent a significant step forward in addressing racial disparities in New York prisons, where 49% of people are Black and 24% are Latinx. According to CCI, Black and Latinx people represent 91% of convictions that expose people to minimum sentences in New York City alone; almost 6 out of every 10 mandatory minimum sentences are imposed on Black people.³

HOW DO MANDATORY MINIMUMS HARM NEW YORK?

Mandatory minimum sentences distort every phase of a criminal case, from charging decisions to plea bargaining and trial.

Because they tie judges' hands and require minimum prison sentences in certain circumstances, mandatory minimums give prosecutors outsized power to pressure people facing criminal charges to give up their constitutional right to trial and accept a guilty plea. Many people simply plead guilty to avoid the risk of a mandatory minimum after trial. This also creates an incentive for prosecutors to over-charge people—that is, charge people with higher-level offenses not warranted by the circumstances—in order to have increased leverage in plea negotiations.

The influence of mandatory minimums has made trials exceedingly rare. In New York, 96% of felony convictions are reached by guilty plea. Trials are the exception, not the rule.⁴

Mandatory minimums lead to coerced pleas and do not increase public safety.

The threat of mandatory minimums can lead to significant miscarriages of justice, causing innocent people and those with strong legal claims to accept a prosecutor's plea bargain to avoid the risk of facing a mandatory minimum sentence after trial. Even in cases of guilt, mandatory minimums can force prison terms on people who judges deem safe to be in the community. Decades of research has found that putting people in prison either has no impact on recidivism or makes individuals more likely to recidivate after release rather than less, compared to community sanctions such as probation.⁵ By forcing judges to impose a prison term, mandatory minimums may actually increase future crime.

Mandatory minimums contribute to the aging of New York's prison population.

Excessively long prison terms required by mandatory minimum sentencing laws have contributed significantly to the aging of New York's prison population, where approximately 15% of people—over 4,700—are 55 or older.⁶ According to a report by the Vera Institute, not only are older people less likely to end up back in the system if released, but the cost of incarcerating an older person is double the cost for a younger person due to health care expenses.⁷ The Eliminating Mandatory Minimums Act will help reduce wasteful and unnecessary incarceration of older people in New York prisons.

Mandatory minimums separate families.

The Office of Children and Family Services estimates that there are more than 105,000 children with a parent incarcerated in a New York jail or prison.⁸ By reducing excessive sentencing, the Eliminating Mandatory Minimums Act will help keep families together, and parents working and caring for their children.

ENDNOTES

- 1 Marc Mauer, "Long-Term Sentences: Time to Reconsider the Scale of Punishment," 87 UMKC L. Rev. 113 (Fall 2018), <https://www.sentencingproject.org/reports/long-term-sentences-time-to-reconsider-the-scale-of-punishment/>.
- 2 Center for Court Innovation, "Felony Sentencing in New York City," December 2022, https://www.courtinnovation.org/sites/default/files/media/document/2022/Felony_Sentencing_Minimums_Race.pdf.
- 3 Center for Court Innovation, "Felony Sentencing in New York City," December 2022, https://www.courtinnovation.org/sites/default/files/media/document/2022/Felony_Sentencing_Minimums_Race.pdf.
- 4 New York State Association of Criminal Defense Lawyers, "The New York State Trial Penalty: The Constitutional Right to Trial Under Attack," March 2021, <https://cdn.ymaws.com/nysacdl.org/resource/resmgr/docs/nystpenreportupdatedfinal.pdf>.
- 5 Petrich et al., "Custodial Sanctions and Reoffending: A Meta-Analytic Review," Crime and Justice, Volume 50, 2021, <https://www.journals.uchicago.edu/doi/pdf/10.1086/715100>.
- 6 New York State Department of Corrections and Community Supervision, "TABLE 1. SECURITY LEVEL AND HOUSING FACILITY BY CURRENT AGE; UNDERCUSTODY JANUARY 1, 2023 NYS-DOCCS," January 2023, https://doocs.ny.gov/system/files/documents/2023/01/2023_01_01-uc-profile.pdf.
- 7 Vera Institute of Justice, "Aging Out: Using Compassionate Release to Address the Growth of Aging and Infirm Prison Populations," December 2017, <https://www.vera.org/downloads/publications/Using-Compassionate-Release-to-Address-the-Growth-of-Aging-and-Infirm-Prison-Populations%E2%80%94Full-Report.pdf>.
- 8 New York State Office of Children and Family Services, "Children of Incarcerated Parents," last accessed January 18, 2023, <https://ocfs.ny.gov/programs/fostercare/incarcerated-parents.php>.