



Repeal Mandatory Minimum Sentences for Drug Offenses

Sen. Creem, *S.819* || Rep. Carvalho, *H.741*

Mandatory minimum sentences for drug offenses are holdovers from the failed war on drugs. It's time for Massachusetts to move past this one-size-fits-all prosecutorial approach to a public health problem. We must repeal mandatory minimums for all drug offenses and allow prisoners who are now serving such sentences to become eligible for parole.

THE PROBLEM – Undue Power for Prosecutors, Unjust Outcomes

Mandatory minimum sentencing for drug offenses takes sentencing power from impartial judges and gives it to prosecutors. Judges are forced to impose lengthy sentences on people convicted of certain drug offenses or accept pleas leveraged with the threat of a mandatory minimum sentence. Mandatory minimums are a big reason why more than 90% of prosecutions in Massachusetts end in plea agreements without trials—a serious threat to due process.

These unjust sentencing laws also exacerbate racial disparities. Despite the fact that people of color and white people use and distribute drugs at comparable rates, and Blacks and Latinos make up less than 25% of the Commonwealth's population, people of color represent 75% of individuals serving mandatory minimum drug sentences.

THE MYTH – Nothing to See Here, the Status Quo is Just Fine

Prosecutors defend the status quo by citing the statistic that fewer than 900 individuals are serving sentences under a mandatory minimum charge in Massachusetts. However, this figure only represents one third of the people charged with mandatory minimum drug offenses. The threat of serving a mandatory minimum sentence forces people to plead guilty and accept a sentence that prosecutors decide is best.

If Massachusetts were an independent nation it would have the 10th highest incarceration rate in the world. Moreover, the racial disparities throughout our criminal justice system are significantly – disturbingly – higher than the national average. Mandatory minimum sentencing drives those numbers, and repealing mandatory minimum sentencing for drug offenses is essential to fixing the problem.

THE SOLUTION – Let Judges Judge; Create Opportunities and Incentives

These bills will allow judges, not prosecutors, to decide the proper sentence on a case-by-case basis, considering the particular facts.

They will:

- Eliminate mandatory sentencing for all drug offenses.
- Repeal mandatory minimum sentences for offenses in “school zones,” which disproportionately impact people of color in urban communities.
- Remove minimum amounts for optional court-imposed fines.
- Allow courts to sentence a drug offender to a lengthy sentence, if warranted (up to 30 years for heroin offenses, 15 to 20 years for all others), or to craft a sentence that might include probation, a shorter sentence, drug treatment, or a combination of approaches to address an individual’s risks and needs.

They will also create opportunities and incentives for people currently incarcerated for drug offenses.

Specifically, they will allow people to:

- engage in educational and vocational programs and earn “good time” credits;
- develop job skills by participating in work release programs;
- be eligible for parole after serving half of the mandatory minimum for their offense, building on similar reforms passed in 2012; and
- give people something to work towards and ensure supervision upon their release.