



Written Statement of Maria Goellner
Director of State Policy, FAMM
In Opposition to SB 1115
Missouri Senate Committee on Judiciary and Civil and Criminal Jurisprudence
January 29, 2024

Dear Chair Luetkemeyer, Vice-Chair Schroer, and Honorable Members of the Committee:

I thank Chair Luetkemeyer, Vice-Chair Schroer, and Honorable Members of the Committee for the opportunity to provide testimony today in opposition to [Senate Bill 1115](#), introduced by Vice-Chair Schroer (R-District 2). FAMM opposes the persistent offender and armed criminal action provisions of this bill because they increase the number of people subject to mandatory minimum sentencing in Missouri.

[FAMM](#) is a nonpartisan, nonprofit organization that seeks to create a more fair and effective justice system that respects our American values of individual accountability and dignity while keeping communities safe. We advocate sentencing policies that are individualized and fair, protect public safety, and preserve families. Our members in Missouri include people from all walks of life, primarily those with incarcerated loved ones. Many of our families have suffered from both incarceration and crime; experiences that are not mutually exclusive.

Representative Cody Smith (R-163) and a bipartisan coalition including then-Republican leadership passed modest, common-sense reform to Missouri sentencing law in 2019. The legislation exempted certain offenses from mandatory minimum prison terms. It returned needed discretion to Missouri's judges, and allowed them to weigh the individual circumstances of each case.

This legislation would expand mandatory minimums. FAMM opposes the sections of the bill relating to persistent offenders under Missouri Revised Statute § 558.016 and armed criminal action under § 558.019 and § 571.015. Both of these sections increase Missouri's reliance on mandatory minimums and mandatory minimums do not work.

Mandatory minimums do not deter crime or make the public safer. Based on a review of the research literature, the National Research Council concluded in its seminal 2014 report, *The Growth of Incarceration in the United States*, that mandatory minimums have few, if any, deterrent effects.¹ Similarly, studies of mandatory minimums for firearm possession in several

¹ National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (Washington, D.C.: The National Academies Press, 2014), 347.
<https://nap.nationalacademies.org/read/18613/chapter/15#347>.



states have found these laws to be ineffective at reducing gun possession and violent crime.² These findings are unsurprising given what research has taught us about deterrence. For mandatory minimums or other punitive sentencing laws to prevent crime, people would need to know about them prior to committing a crime. In reality, few people are aware of penalties for particular crimes. Therefore, increasing the severity of punishment does not deter people from engaging in criminal activity.³ Instead, it is the certainty of being caught and swiftly punished that deters crime.⁴

Mandatory minimums result in unjust sentences that do not fit the crime. Every individual before the court and every case is unique. One-size-fits-all sentences do not permit judges to holistically consider all of the relevant facts and circumstances, such as the crime and its impact on the community, or the individual’s criminal record, role, motive, profit from the offense, age, likelihood of rehabilitation, or need for mental health or drug treatment. Mandatory minimums contribute to the “trial penalty,” where prosecutors levy a penalty on people who turn down plea deals by bringing forth charges that carry lengthy mandatory minimum sentences. Not only does the “trial penalty” suppress Sixth Amendment rights, this system can cause minor players in conspiracies receiving much longer sentences than ringleaders and “kingpins”.

A qualitative study of judges’ perceptions of mandatory minimums found that the majority believed “that mandatory minimums often strip away the flexibility they need to craft appropriate sentences in individual cases, leading to punishments that are unduly harsh, and sometimes preventing the imposition of promising alternatives to incarceration.”⁵ Eliminating mandatory minimum sentences does not mean that people will not be punished or imprisoned. It simply means courts will not have to imprison people indiscriminately, without considering factors that matter.

Mandatory minimums create unwarranted racial disparities in sentencing. For example, a study of federal sentencing patterns found that Black people were given sentences that were, on average, 10 percent longer than the sentences given to comparable white people arrested for the same crimes. Most of this disparity was due to prosecutors’ initial charging decisions, particularly the filing of charges carrying mandatory minimum sentences. Holding other factors constant, prosecutors were 65 percent more likely to charge Black people with offenses that carried mandatory minimums than the average. This initial mandatory minimum charging

² Stephanie Kollmann and Dominique D. Nong, “Combatting Gun Violence in Illinois: Evidence-Based Solutions,” Bluhm Legal Clinic, October 17, 2013, http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?filename=3&article=1000&context=jclc_symposium&type=additional (“[T]he evidence indicates, repeatedly, that mandatory minimum sentences will not reduce gun violence. On the contrary, such restrictions are both costly and counterproductive.”); Jens Ludwig and Jean Raphael, “Prison Sentence Enhancements: The Case of Project Exile” in *Evaluating Gun Policy: Effects on Crime and Violence*, ed. Philip J. Cook and Jens Ludwig, at 280 (Washington, D.C.: The Brookings Institution) (finding in a 2003 study of Virginia’s “Project Exile” that mandatory gun sentence enhancements “demonstrated fairly conclusively that [Project Exile] is a bust. It has no impact. It did not work.”).

³ National Institute of Justice, “Five Things about Deterrence,” May 2016.

<https://www.ncjrs.gov/pdffiles1/nij/247350.pdf>

⁴ *Id.*

⁵ Nir, E., & Liu, S. (2022). The challenge of imposing just sentences under mandatory minimum statutes: A qualitative study of judicial perceptions. *Criminal Justice Policy Review*, 33(2), 177-205.

<https://scholarsphere.psu.edu/resources/b54d8ba6-d618-4a6f-82a9-7a89f732076c>.

disparity explained more than half of the black-white sentence disparities not otherwise explained by pre-charge characteristics.⁶

Mandatory minimums can undermine trust in the criminal legal system, which makes communities less safe. Sentencing policies that create unjust, arbitrary, or racially-biased outcomes weaken trust in the criminal legal system and cause people to question the system’s legitimacy.⁷ This can in turn make people more likely to break the law⁸ and less likely to cooperate with law enforcement.⁹

Mandatory minimums waste resources that could otherwise be used to prevent crime. Mandatory minimums have failed to meaningfully benefit public safety and it comes at an exorbitant cost to taxpayers. The FY2023 appropriation for the Department of Corrections was nearly \$1 billion dollars.¹⁰ There does not appear to a fiscal analysis of the changes to § 558.016 in the existing Fiscal Note. The mandatory minimum sentencing expansions in this bill relating to § 558.019 and § 571.015 will increase the prison population by over 1,200 people.¹¹ Because long prison terms are expected but will actually be served outside the current reporting period, the Fiscal Note reports no impact. But, there is a huge impact to Missouri taxpayers, and it will likely be millions upon millions of dollars. Missouri should be putting these finite public safety resources into more effective crime prevention strategies.

By sending more people to prison and keeping them there longer, mandatory minimums devastate families and contribute to poverty. When someone is incarcerated, their families “do the time” with them. The incarcerated individual can no longer contribute to the household income, which often makes it difficult for their families to meet basic needs, such as food, housing, and utilities.¹² Plus, many family members spend hundreds of dollars a month to visit, call, and email their loved ones and to provide prison commissary funding for toiletries and other essentials.¹³ The emotional and psychological toll of the incarcerated individual’s absence from major milestones and day-to-day life is horrendous. Children of incarcerated parents experience significantly higher rates of mental health, educational, behavioral, developmental, and

⁶ M. Marit Rehavi and Sonja B. Starr (2014). “Racial Disparity in Federal Criminal Sentence,”

<https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2413&context=articles>.

⁷ Roberts, J.V. and Plesnicar, M. M. (2015). *Sentencing, Legitimacy, and Public Opinion*. In: Meško, G., Tankebe, J. (eds) *Trust and Legitimacy in Criminal Justice*. Springer, Cham. https://link.springer.com/chapter/10.1007/978-3-319-09813-5_2.

⁸ Walters, G.D. and Bolger, P.C. (2019). Procedural justice perceptions, legitimacy beliefs, and compliance with the law: a meta-analysis, *Journal of Experimental Criminology*, 15, 341–372, <https://link.springer.com/article/10.1007/s11292-018-9338-2>.

⁹ Murphy, K. and Cherney, A. (2012). Understanding Cooperation With Police in a Diverse Society, *The British Journal of Criminology*, 52(1):181-201. <https://academic.oup.com/bjc/article-abstract/52/1/181/373099>.

¹⁰ FY2024 Executive Budget – Corrections Summary.

https://oa.mo.gov/sites/default/files/FY_2024_EB_Corrections.pdf

¹¹ Fiscal Note for SB 1115, <https://senate.mo.gov/FiscalNotes/2024-1/4421S.01I.ORG.pdf>.

¹² deVuono-powell, S. et al. (2015). *Who Pays? The True Cost of Incarceration on Families*, Ella Baker Center, Forward Together, Research Action Design, at 18. <http://whopaysreport.org/who-pays-full-report/>.

¹³ Lewis, N. and Lockwood, B. (2019). *How Families Cope with the Hidden Costs of Incarceration for the Holidays*, *The New York Times*. <https://www.nytimes.com/2019/12/17/us/incarceration-holidays-family-costs.html>.

relationship problems than their peers.¹⁴ Similarly, incarceration is associated with negative mental and physical health consequences for adult family members.¹⁵

The provisions of SB 1115 relating to persistent offenders and armed criminal action move Missouri backward. It is not tough to promise the public a false solution that harms families. Decades of data shows that mandatory minimums are neither effective nor cost-efficient at preventing crime or keeping communities safe. They create unjust outcomes, decrease trust in the criminal legal system, devastate families, and waste millions of dollars that could otherwise be spent on programs and interventions that actually do prevent crime. Communities need policies that work. Mandatory minimums don't.

Lawmakers, please vote “no” on SB 1115 to the extent that it expands mandatory minimums. We urge you to advance legislation that makes effective and evidence-based investments in communities and violence reduction. Thank you for considering our views. Please contact me at (717) 945-9089 or mgoellner@famm.org if you have any questions or need assistance.

¹⁴ Eddy, J. M., & Poehlmann-Tynan, J. (Eds.). (2019). *Handbook on Children with Incarcerated Parents: Research, Policy, and Practice (2nd ed.)*, at 4. Springer Nature Switzerland AG. <https://doi.org/10.1007/978-3-030-16707-3>.

¹⁵ Sundaresh, R., Yi, Y., and Harvey, T.D. (2021). *Exposure to Family Member Incarceration and Adult Well-being in the United States*, JAMA Netw Open, 4(5). <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2780438>. Wildeman, C., Goldman, A.W., and Lee, H.L. (2019). *Health Consequences of Family Member Incarceration for Adults in the Household*, Public Health Reports, 34(Supplement 1), at 15S-21S. <https://journals.sagepub.com/doi/pdf/10.1177/0033354918807974>.