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Justice Safety Valve Act

Summary

This act would provide sentencing judges with discretion to depart from mandatory minimum sentences for nonviolent offenders who meet specified criteria.

Model Legislation

{Title, enacting clause, etc.}

{Section 1.} **Title.** This Act shall be known as the Justice Safety Valve Act.

{Section 2.} **Sentencing.**

(A) Notwithstanding any other provision of law, when sentencing a person convicted of a violation for which there is a mandatory minimum sentence, but which did not:

(1) Include the use, attempted use or threatened use of serious physical force by the defendant against another person or result in the serious physical injury of another person by the defendant; or

(2) Involve any sexual contact offense by the defendant against a minor (other than an offense involving sexual conduct where the victim was at least 13 years old and the offender was not more than four years older than the victim and the sexual conduct was consensual);

(B) The court may depart from the applicable mandatory minimum sentence if the court finds substantial and compelling reasons on the record that, in giving due regard to the nature of the crime, history and character of the defendant and his or her chances of successful rehabilitation that:

(1) Imposition of the mandatory minimum would result in substantial injustice to the defendant;

(2) The mandatory minimum sentence is not necessary for the protection of the public.

{Section 3.} **Exceptions**

(A) Section (2)(B) shall not apply if the court finds that:

1) The individual has a conviction for the same offense during the ten-year period



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- prior to the commission of the offense;
- 2) The individual intentionally uses a firearm in a manner that causes physical injury during the commission of the offense;
 - 3) The individual was the leader, manager, or supervisor of others in a continuing criminal enterprise.

{Section 4.} Reporting

(A) Upon departing from mandatory minimum sentences, judges shall report to [the Sentencing Commission or other appropriate agency] which shall, one year following the enactment of this statute and annually thereafter, make available in electronic form and on the World Wide Web, a report as to the number of departures from mandatory minimum sentences made by each judge in the state.

{Section 5.} Reinvestment

(A) Twenty-five percent of the savings realized as a result of this act shall revert to the general fund to advance evidence-based practices shown to reduce recidivism.

{Section 6.} Effective Date.

{Section 7.} Repealer Clause

{Section 8.} Severability Clause

Approved by the ALEC Board of Directors on August 5, 2013.