



September 14, 2017

The Honorable Claire Cronin
Chair, Joint Committee on the Judiciary
Massachusetts State House
24 Beacon Street
Boston, MA 02133

The Honorable William Brownsberger
Chair, Joint Committee on the Judiciary
Massachusetts State House
24 Beacon Street
Boston, MA 02133

Dear Chair Cronin and Chair Brownsberger,

I write on behalf of Families Against Mandatory Minimums (FAMM) to oppose S. 2158. The opioid epidemic has taken a huge toll on Massachusetts, and FAMM supports continued efforts to address this mounting issue. However, responding to drug overdoses with a five-year mandatory minimum will result in an increase in counterproductive prison sentences and have no discernable impact on the rate of drug use in the Commonwealth.

FAMM opposes S. 2158 because no two crimes and no two offenders are the same. Trying to impose a one-size-fits-all solution will create inequities that will offend the public's legitimate expectation that more serious offenders should get more serious penalties. Consider, for example, a low-level, low-risk offender who gives opioids to a person who intentionally commits suicide by overdose. Under S. 2158, the low-level offender who supplied the drugs would be subject to the same mandatory minimum as a major kingpin who sells large quantities of drugs. Furthermore, the sentencing court would be unable to consider whether the drug dealer was, in fact, also a user. Individuals with drug dependencies often turn to distribution to support their own habits.

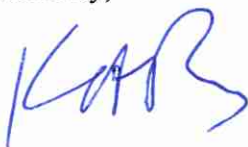
In addition, we urge you to consider that drugs are frequently shared or sold among friends. If an unintended but tragic overdose results, the proposed bill provides no flexibility for courts to provide a fair punishment, or ensure that the user-dealer gets treatment. Governor Baker rightly refers to the opioid epidemic as a public health crisis, but a strict liability mandatory minimum is far from a public health approach. Harsh mandatory minimum drug sentences already on the books in Massachusetts have not stopped opioid abuse or overdoses, and the Governor's past statements in opposition to drug mandatory minimums suggests he realizes they are an ineffective tool to combat drug abuse.

Not only will this mandatory minimum fail to curb opioid abuse, it will fail while imposing high costs on taxpayers who deserve better results. As of July 2016, the annual cost of incarceration per inmate in Massachusetts is \$55,752. Should S. 2158 become law, the Commonwealth will spend \$278,760 to incarcerate a single drug dealer for manslaughter. If Massachusetts prosecuted and sentenced dealers for their roles in just one-quarter of opioid-related deaths in 2016, it would cost the Commonwealth \$138 million.

Perhaps the high cost could be justified if this bill was likely to have a strong deterrent effect on drug distribution, but available evidence overwhelmingly suggests that it will not. The Federal Government's National Institute of Justice has made clear that it is the certainty of being caught, not the severity of the punishment, that deters crime. As it relates to drug-related crime, the body of evidence weighs even more heavily against lengthy punishment. A recent 50-state study from the Pew Charitable Trusts found no significant relationship between drug sentencing and three key indicators of drug epidemics: illicit drug use, drug arrests, and overdoses rates.

The increase in overdose deaths in Massachusetts is terrifying and heartbreaking. That is why Massachusetts should not settle for cosmetic, "do something" fixes such as S. 2158, but strive for evidence-based practices that will have a meaningful impact on the opioid crisis and actually promote public safety. We urge you to oppose this bill. Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "KAR", is positioned below the word "Sincerely,".

Kevin A. Ring
President, FAMM

CC All members of the Joint Committee on the Judiciary.