

May 4, 2018

The Honorable Ron Richard
Senate President Pro Tempore
Missouri Senate
201 W. Capitol Ave., Room 326
Jefferson City, MO 65101

Dear President Richard:

We, the undersigned organizations, write today to urge you to consider HB 1739 (Rep. Cody Smith) during this legislative session. HB 1739 would reduce wasteful government spending, focus lengthy prison sentences on the most serious offenders, and increase public safety. The House passed HB 1739 unanimously, 148-0, on May 1. An identical version of HB 1739, SB 748 (Sen. Ed Emery), was approved by the Senate Judiciary and Civil and Criminal Jurisprudence Committee on March 12. The Missouri Senate should consider HB 1739 as soon as possible.

HB 1739 would grant judges limited discretion to depart from statutory minimum sentences and mandatory minimum prison terms in a select number of nonviolent cases when the court finds substantial and compelling reasons that the minimum sentence would create a substantial injustice or would not be necessary for the protection of public safety. **HB 1739 would save taxpayers approximately \$3 million each year** while also alleviating the strain on Missouri's overcrowded prison facilities and helping to prevent the costly construction of new prisons.

Should Missouri pass HB 1739, it will join a growing list of states, including Utah, North Dakota, Iowa, South Carolina, Georgia, and Louisiana, that have significantly reformed their mandatory sentencing laws to return discretion to the courts and reduce their state's reliance on lengthy and costly prison sentences. HB 1739 is based on model legislation adopted by the American Legislative Exchange Council (ALEC). Similar versions of this model have been enacted in Georgia, Florida, Oklahoma, Virginia, Maryland, Montana, Maine, and Minnesota for both violent and nonviolent offenses.

HB 1739 deserves consideration because Missouri's current approach is increasing costs without increasing safety. Prison is necessary in many situations, but it is an expensive and limited government resource. In 2016, Missouri's annual cost per prisoner was \$20,896. This high annual cost, coupled with Missouri's prison population of 33,000, has resulted in the Department of Corrections (DOC) receiving over \$300 million just to cover the costs of operating its adult facilities.¹ If Missouri continues current sentencing practices, its prison population will grow to 35,000 prisoners by 2021, requiring the construction and operation of two new prisons at a \$485 million cost to the taxpayers.² With one-third of new prison admissions receiving a minimum

¹ Missouri Department of Corrections, "Annual Report 2016," <https://doc.mo.gov/Documents/publications/AR2016.pdf>, 9-10.

² Council of State Governments, Justice Reinvestment in Missouri: Final Presentation to the Missouri State Justice Reinvestment Task Force 49 (Dec. 13, 2017), http://www.stltoday.com/news/multimedia/final-presentation-to-the-justice-reinvestment-task-force/pdf_4e9f77d6-65b8-5fea-a519-8a9dccb46c4b.html.

prison term, giving courts more flexibility to reserve those lengthy sentences for the most serious offenders can help slow this unsustainable growth pattern.

While costly, mandatory minimum sentencing has not been proven to make people safer. Missouri's minimum prison terms were designed with hopes of deterring further criminal behavior. But three decades of evidence show that mandatory minimum sentences do not deter crime. The Department of Justice's National Institute of Justice has found that the certainty of being caught and punished swiftly, not a lengthy prison term, deters crime.³ Furthermore, a recent study found that progressively longer sentences for repeat offenders, the concept behind Missouri's minimum prison terms, are less effective than alternative options like intensive probation.⁴ In fact, the authors of the report noted that in some instances tougher prison sentences may be criminogenic, increasing the likelihood that an offender will continue to engage in crime.⁵

HB 1739 would not give judges free reign when it comes to sentencing, nor would it fling open the prison doors. The safety valve would not apply to people who used, or threatened to use, violence or caused serious bodily injury; committed a sexual offense against a minor; or discharged or brandished a firearm during the commission of a crime. Nor would the bill prevent judges from granting prison sentences that are longer than the statutory minimums required. Serious crimes and serious offenders would still receive serious punishment. Judges would merely have more discretion, in a limited set of cases, to decide if the minimum punishment is necessary to do justice and protect the public. Conservatives know that one-size-fits-all policies rarely work in every situation. HB 1739 would give courts the power to treat people like individuals, considering all the facts of the case.

Missouri cannot get more safety by doing more of the same. The \$3 million annual savings from HB 1739 could be reinvested in more effective methods of increasing public safety, such as hiring more police officers to patrol high-crime areas, more detectives to clear homicide cases, and more drug treatment to combat the nation's opioid crisis. HB 1739 is a conservative solution that deserves your consideration as soon as possible.

Thank you for your considering our views. We are happy to be of further assistance as you discuss this important issue.

Sincerely,
American Conservative Union Foundation Center for Criminal Justice Reform
Americans for Tax Reform
Families Against Mandatory Minimums
FreedomWorks
R Street Institute
Right on Crime
cc: Members of the Missouri Senate

³ National Institute of Justice, "Five Things About Deterrence," <https://nij.gov/five-things/pages/deterrence.aspx>

⁴ Mears, D.P. and Cochran, J.C. (2017), "Progressively Tougher Sanctioning and Recidivism: Assessing the Effects of Different Types of Sanctions," *Journal of Research in Crime and Delinquency* 1-48. 1

⁵ Ibid, 33.