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The Impact of Eliminating Mandatory Minimums on Sentencing Outcomes

Mandatory minimum sentencing laws require judges to impose automatic, minimum prison terms for certain offenses. These laws are set by the legislature and remove judges' ability to tailor sentences to the specific circumstances of a case. Instead, they force judges to impose sentences that are often wasteful, counterproductive, and undermine effective and data-driven approaches to public safety. Mandatory minimums are a legislative determination that judges cannot be trusted to impose a just sentence.

Research attributes present-day prison overcrowding and population aging to changes in sentencing and correctional policy in the early 1980s, particularly the expanded use of mandatory minimum penalties.[1] These policies increased both the number of people entering the justice system and the length of incarceration, contributing to the mistaken assumption that eliminating mandatory minimum penalties would function as a "get-out-of-jail-free card." In reality, repealing a mandatory minimum does *not* remove the possibility of the most serious punishment. Rather, it returns discretion to judges to determine an appropriate sentence in each case, while leaving intact the authority to impose the maximum penalty for the most culpable individuals.

Virginia

For each sentencing event in a Virginia circuit court, the Virginia Criminal Sentencing Commission records whether a judge concurred with or departed from the sentencing guidelines. Aggregated data from 2020 to 2024 show that judges adhered to the guidelines in 80 percent of cases. In seven percent of cases, judges imposed sentences that were more severe than the guidelines recommended.

For example, there are no mandatory minimum penalties for murder in Virginia. For first-degree murder, assuming no prior criminal record, the high end of the sentencing guidelines is approximately 38 years—nearly four decades in prison. Nevertheless, judges depart upward in more than 25 percent of murder cases, regularly imposing life or de facto life sentences when they believe such sentences are warranted.[2] **Even in the absence of mandatory minimums, judges routinely impose severe sentences when able to consider all relevant facts and circumstances.** Notably, the rate of upward departures is higher for murder than for any other offense type.

Maryland

In 2015, Maryland enacted legislation that restored judicial discretion in a wide range of drug cases. The following year, the state repealed most of its drug related mandatory minimums and made the reform retroactive.

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) records sentencing guideline compliance and average sentence lengths for convictions in the state's circuit courts. In

2016, compliance with the sentencing guidelines for drug offenses ranged from 68 to 95 percent, with an average compliance rate of 79 percent. Upward departures above guideline recommendations were limited, with the greatest deviation measuring only 3.3 percent, and the average sentence length for drug offenses that year was 5.94 years.[3]

Nearly a decade after legislative reforms restored judicial discretion, guideline compliance for drug offenses increased and average sentence length declined minimally. **Restoring judicial discretion did not erode adherence to sentencing guidelines or eliminate incarceration but instead contributed to sentencing consistency over time.** In 2024, there was an average compliance rate of 91 percent and an average sentence length of 5.12 years for drug convictions.[4]

South Carolina

In 2010, South Carolina passed legislation that eliminated the 10-year mandatory minimum sentence for school zone violations, permitted probation for certain second and third drug possession convictions, and repealed mandatory minimum sentences for first-time simple drug possession offenses.[5]

Within four years of enactment, South Carolina reduced its prison population by 14 percent,[6] closed two minimum-security prisons,[7] and saved millions of dollars,[8] all while the state's crime rate declined.[9] At the same time, as the number of people entering prison each year decreased, the length of time served increased. Between 2016 and 2020 the average sentence length increased from 13 years and 8 months to 15 years and 9 months.[10]

Repealing mandatory minimums can lower prison admissions and costs while still allowing proportional sentence lengths for serious offenses, underscoring that reform does not equate to leniency. In South Carolina, these trends reflect a shift toward reserving lengthy sentences for the most serious cases, demonstrating that eliminating mandatory minimums allows for more efficient use of incarceration without reducing accountability.

Georgia

In 2010, one in thirteen adults in Georgia was under some form of correctional control, the state's prison population had more than doubled over the previous two decades. Corrections had become the state's second-highest expenditure after education.[11] By 2012, Georgia was spending more than $1 billion annually on corrections, while drug and property offenses accounted for nearly 60 percent of prison admissions.

In 2013, the Georgia legislature adopted legislation granting sentencing judges broad discretion to waive mandatory minimums for individuals who meet certain criteria. Within the first year of enactment, the reform saved the state $20 million in avoided costs[12] by allowing judges to determine when incarceration was necessary and when more cost-effective, community-based sanctions were appropriate for less serious offenses.[13] **Expanding judicial discretion can reduce correctional costs and prison admissions without eliminating incarceration as a sentencing option.**

Conclusion

The evidence from states that have repealed or eliminated mandatory minimums makes clear that reform is not synonymous with leniency. Restoring judicial discretion allows sentences to better reflect the individual circumstances of each case, while preserving the ability to impose severe penalties when warranted. Moving away from mandatory minimums can help promote fairer sentencing, improve public safety outcomes, and more effective use of correctional resources.

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