



November 12, 2021

RE: Upcoming House Vote on HB 1587 and HB 1590

Dear Honorable Members of the Pennsylvania House of Representatives:

We write to ask you to vote “no” to both HB 1587 and HB 1590. These two bills would return Pennsylvania to draconian one-size-fits-all sentencing and deprive local courts of discretion. On behalf of thousands of Pennsylvania families, **we strongly oppose HB 1587 and HB 1590. They create mandates where local judgment should be supported.**

We know that gun violence is on the rise in Pennsylvania, and we share every resident’s concerns about it. But when communities are bleeding and people are dying, **the state should not waste limited resources on a policy that does not work. Mandatory minimum sentences have never been proven to reduce, deter, or prevent gun possession or use.**¹ They are proven to produce absurd, unjust, and excessive sentences that misspend public safety dollars and weaken trust in the justice system, making it harder for law enforcement to solve cases. Pennsylvania deserves and needs solutions that actually work, now more than ever.

HB 1587 would force judges to sentence many people to prison for two, five, or 10 years or more for possessing a gun, based on their prior or current convictions for other crimes. HB 1590 requires that a presumptive guideline sentence be imposed whenever a gun is possessed during a crime of violence or drug offense, or when the person is prohibited from possessing a gun. A very narrow exception to this rule still requires courts to impose sentences no shorter than the bottom of the mitigated sentencing guideline range. Put simply, **HB 1590 creates mandatory minimum sentences by another name. Under both bills, local courts will not get to consider special facts or circumstances of a case, the needs of the person and the community, or ensure that lengthy, expensive prison sentences are reserved for the most dangerous people.**

Mandatory minimum sentences are an expensive failure. They do not deter crime, including violent or gun crime. In 2009, the Pennsylvania Commission on Sentencing studied mandatory minimums and found that only one in three Pennsylvanians could name a crime that carried a mandatory minimum sentence. People cannot be deterred by punishments they do not

¹ 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.”).



know about. It is certainty of apprehension, not length of sentence, that deters crime.² Certainty of apprehension is increased through smarter policing and building community trust so that law enforcement can solve and close more cases. Pennsylvania has less money to spend on increasing the certainty of convictions when it wastes money on indiscriminately locking up people who possess guns and have prior records.

Prison sentences can incapacitate people, but mandatory sentences too often do so in a wasteful, ineffective manner. Violent crime reduction expert Thomas Abt has found that prison sentences are most effective if they are focused on “bona fide shooters” and those most likely to commit gun violence in the near future, and only if they are viewed as fair by the community.³ Mandatory minimum sentences are unfocused and inevitably produce unfair results. They are also perceived as unfair because of their connection with racial disparities in sentencing⁴ – disparities that tend to fall heavily on the very communities most impacted by violent crime.

Mandatory minimum sentences for people who possess guns and have a felony record are, even under HB 1587, overbroad and not always focused on those presently committing violence. Under HB 1587, a person who possesses a gun, commits receipt of stolen property, and has two prior felonies for receipt of stolen property within the last five years receives the same five-year prison term as a person who possesses a gun, rapes someone, and has a prior conviction for armed robbery. HB 1587’s mandatory sentences may be appropriate in some cases, but, like all mandatory minimums, they will also misfire. When they do, they waste public safety resources that could be better spent on tools that actually prevent crime and reduce violence.

HB 1587 also creates two- and 10-year mandatory minimums for dozens of offenses committed when a person possesses a weapon and reoffends while on supervision. Given HB 1587’s lengthy sentences and Pennsylvania’s recidivism rates, **this portion of the bill could cost taxpayers millions of dollars – again, without deterring violent crime.** This provision is also overbroad. For example, under HB 1587, a person on probation for theft who carries a pistol for self-defense and breaks someone’s nose in a fistfight would receive a sentence of at least two years in prison. This person is far different from one committing shootings in the community.

HB 1590 is no better a solution than HB 1587. **First and most importantly, HB 1590’s presumptive guideline sentences are not needed or justified.** According to the Pennsylvania Commission on Sentencing, 88 percent of sentences imposed are in conformity with the guidelines. Only seven percent of cases involve departures below the guidelines range.⁵

² Penn. Comm’n on Sentencing, Report to the House of Representatives: A Study on the Use and Impact of Mandatory Minimum Sentences, at 3, 199 (Oct. 2009), <http://pcs.la.psu.edu/publications-and-research/research-and-evaluation-reports/special-reports/house-resolution-12-of-2007-use-and-impact-of-mandatory-minimum-sentences/report-to-the-legislature-the-use-and-impact-of-mandatory-minimum-sentences.-hr-12-of-2007/view>.

³ Thomas Abt, Bleeding Out, Chapters 3-5 (2019).

⁴ Penn. Comm’n on Sentencing, Annual Report, at 58 (showing that 58 percent of firearms offenders sentenced in 2019 were black); Report to the House of Representatives, at 301, 306, 308 (showing that 75 percent of firearms offenders were black, and that more black and Hispanic people than whites received mandatory minimum gun sentences).

⁵ Penn. Comm’n on Sentencing, 2019 Annual Report, at 22 (Dec. 1, 2020), <http://pcs.la.psu.edu/publications-and-research/annual-reports/2019/view>.

HB 1590 would substitute the judgment of the legislature in Harrisburg for the judgment of local courts responding to local community needs and concerns. HB 1590's junior varsity mandatory minimums will produce the same counterproductive, unjust, unfocused, and costly sentences as their varsity counterparts in HB 1587. HB 1590 will also have unintended consequences that create neither conformity nor transparency in the justice system. By making so many guideline sentences presumptive, locally elected district attorneys may have to engage in convoluted and creative charge and plea bargaining to ensure that these presumptive sentences are only applied to the most dangerous and deserving defendants.

Gun violence is a serious problem in Pennsylvania, and for that reason, the state should not waste public safety resources on ineffective policies. Neither mandatory minimum sentences nor mandatory sentences masquerading as presumptive guideline sentences reduce or deter gun possession, use, or violence. Mandatory sentences instead reduce public safety by creating unjust results that make people less willing to help police solve crimes. Mandatory minimums waste prison cells on people who are not a pressing danger to the public. **Pennsylvanians cannot afford – in dollars or lives – another crime policy that sounds appealing but does not actually work.**

Representatives, please vote “no” on HB 1587 and HB 1590. We urge you to advance legislation that makes effective and evidence-based investments in communities and violence reduction.

Thank you. Please contact mgoellner@famm.org if you have any questions or need assistance with this matter.

Respectfully,

FAMM
Abolitionist Law Center
ACLU of Pennsylvania
Amistad Law Project
Straight Ahead
Public Defender Association of Pennsylvania (PDAP)

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