

## Summary – H.1620/S.786

### An Act eliminating mandatory minimum sentences related to drug offenses

**Rep. Benjamin Swan & Sen. Cynthia Creem, with 68 co-sponsors<sup>1</sup>**

G.L. c. 94C, the Controlled Substances Act, requires a mandatory minimum sentence for 24 drug offenses. The offense can be one three types:

- Possession with intent to distribute – when the amount in question is intended to be sold, rather than for personal use;
- Distribution – selling or sharing of small quantities of a drug that does not rise to the level of trafficking, mainly for second convictions;
- Trafficking – selling 18 or more grams of “hard” drugs (two to three tablespoons) or 50 or more pounds of marijuana.

**The problem.** Mandatory minimum sentencing laws require judges to send those who are convicted to prison for at least a set number of years, depending on the particular offense. The courts cannot order drug offenders to treatment programs, drug court or probation – even if their criminal behavior is driven by substance abuse or addiction or they don’t pose a threat to public safety.

For trafficking offenses, the sentence is based solely on the weight of the drugs. It doesn’t matter what role the person played in the crime, whether or not he/she has a prior record or is an addict in need of treatment. Mandatory sentences range in length from one to 12 years, based on the offense, with an additional mandatory sentence of two years if the offense occurred within a school zone.

**The solution.** H.1620/S.786 would:

- 1) Repeal mandatory minimum sentences for all drug offenses – The courts could still sentence a drug offender to a lengthy sentence, if warranted (up to 30 years for heroin offenses, 15 to 20 years for all others) but could also craft a sentence that might include probation, a shorter sentence, drug treatment, or a combination of approaches to address an individual’s risks and needs (sections 1 – 16);
- 2) Remove minimum amounts for fines – Fines, which are currently optional, could still be imposed but no minimum fine would be required (sections 1 – 16);

- 3) Allow drug offenders currently serving mandatory minimum sentences to be eligible for earned “good time” credits – Drug offenders would have an incentive to take part in educational and vocational programs in order to reduce their sentences (section 17);
- 4) Allow drug offenders currently serving mandatory minimum sentences to be eligible for work release programs (section 18) – Drug offenders could better prepare themselves for release by gaining job skills;
- 5) Allow drug offenders currently serving mandatory minimum sentences to be eligible for parole after serving half of the mandatory minimum for their offense – This section builds on the approach used in the 2012 reforms, linking parole eligibility to the mandatory minimum sentence in question, giving prisoners something to work towards, and ensuring supervision upon release (section 19).

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<sup>1</sup> Representatives Brian M. Ashe, Cory Atkins, Ruth B. Balsler, Christine P. Barber, Jennifer E. Benson, Michael D. Brady, Paul Brodeur, Antonio F. D. Cabral, Gailanne M. Cariddi, Evandro C. Carvalho, Leah Cole, Brendan P. Crighton, Claire D. Cronin, Michael S. Day, Marjorie C. Decker, Marcos A. Devers, Stephen L. DiNatale, Daniel M. Donahue, Michelle M. DuBois, Carolyn C. Dykema, Tricia Farley-Bouvier, Gloria L. Fox, Sean Garballey, Carmine L. Gentile, Carlos Gonzalez, Kenneth I. Gordon, Danielle W. Gregoire, Jonathan Hecht, Paul R. Heroux, Russell E. Holmes, Louis L. Kafka, Jay R. Kaufman, Mary S. Keefe, Kay Khan, Peter V. Kocot, John J. Lawn, Jr., Jay D. Livingstone, Timothy R. Madden, John J. Mahoney, Elizabeth A. Malia, Paul McMurtry, Aaron Michlewitz, Michael J. Moran, James J. O'Day, Denise Provost, David M. Rogers, Jeffrey N. Roy, Byron Rushing, Tom Sannicandro, Paul A. Schmid, III, John W. Scibak, Frank I. Smizik, Todd M. Smola, Ellen Story, Jose F. Tosado, Steven Ultrino, Aaron Vega and Chris Walsh. Senators James B. Eldridge, Linda Dorcena Forry and Jason M. Lewis.