



## THE CASE FOR A SENTENCING SAFETY VALVE IN MISSOURI HB 113 (C. SMITH) AND SB 8 (EMERY)

### Missouri's minimum prison terms (MPTs) and statutory minimums contribute to high prison population and costs:

- Per 558.019 of the Revised Statutes of Missouri, certain offenders are required to serve a minimum portion of their sentence. These minimum mandatories are as follows:
  - Offenders with one prior DOC commitment must serve 40% of their sentence or until the offender reaches 70 years of age and has served 30% of their sentence.
  - Offenders with two prior DOC commitments must serve 50% of their sentence or until the offender reaches 70 years of age and has served 40% of their sentence.
  - Offenders with three or more prior DOC commitments must serve 80% of their sentence or until the offender reaches 70 years of age and has served 40% of their sentence.
  - Offenders found guilty of dangerous felonies must serve 85% of their sentence.
- One-third of all new sentence prison admissions each year are MPTs – and serve longer sentences that cost taxpayers more and contribute to a large prison population.<sup>i</sup>
- Missouri also has lengthy statutory minimum sentences for Class A (10-year minimum), Class B (5-year minimum), and Class C (3-year minimum) felony offenses. These lengthy statutory minimums can be required even for nonviolent, low-level offenses, including drug offenses.

### Missouri's lengthy statutory minimum sentences add to prison population and costs:

- Prisoners are expensive to incarcerate: \$20,896 (\$57.25/day) per person, per year.
- Despite recent steps in the right direction, Missouri's prison population of 33,000 is still the 8th largest in the nation.
- Without reform, Missouri's prison population will continue to grow to 35,000 by 2021, requiring the state to build two new prisons, which would cost upwards of \$200 million in the first two years alone.<sup>ii</sup>

### The safety valve: “Goldilocks” sentencing that is just right for Missouri.

- The safety valve is a state-tested policy that permits courts to depart from the statutory or minimum mandatory sentence when that minimum prison term is not necessary to protect the public.
- By permitting, not requiring, judges to depart from the statutory or mandatory minimum, the safety valve allows courts to avoid unreasonably lengthy punishments and account for special facts and circumstances in a case.
- A safety valve would fill the gap in Missouri drug sentencing, creating a range of prison sentence options between the 120-day and long-term commitment and the statutory minimum – so a judge can find the sentence that is just right for the case and



the offender. This “Goldilocks” approach would allow a court to give 7 years in prison instead of 10 to a Class A drug felon, for example, if the facts of the case warrant it.

- Safety valve legislation will help Missouri reserve valuable and finite prison resources for the most dangerous and deserving prisoners.
- The safety valve is limited so that it does not apply to people who used violence during the crime.

**Missouri should join fellow conservative states in reducing crime and incarceration.**

- More than 30 states have reduced, eliminated, or reformed their mandatory minimum laws over the past decade – and crime in those states has gone down, not up.
- In 2017, Louisiana repealed many of its mandatory minimum sentences.
- In 2016 and 2017, Iowa’s legislature unanimously halved some of its mandatory minimum drug sentences, and eliminated others entirely.
- In 2015, Oklahoma introduced a safety valve for some of its mandatory minimum drug trafficking sentences.
- In 2013, Georgia unanimously adopted safety valve legislation that has already saved the state \$20 million.

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<sup>i</sup> MISSOURI DEP’T OF CORRECTIONS, 2016 PROFILE OF THE INSTITUTIONAL AND SUPERVISED OFFENDER POPULATION 56-58 (June 30, 2016),

<https://doc.mo.gov/Documents/publications/Offender%20Profile%20FY16.pdf> (published Mar. 2, 2017).

<sup>ii</sup> 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-thejustice-reinvestment-task-force/pdf\\_4e9f77d6-65b8-5fea-a519-8a9dccb46c4b.html](http://www.stltoday.com/news/multimedia/final-presentation-to-thejustice-reinvestment-task-force/pdf_4e9f77d6-65b8-5fea-a519-8a9dccb46c4b.html).