



MEMORANDUM

TO: The Pennsylvania House of Representatives

FROM: Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

DATE: June 4, 2021

RE: OPPOSITION TO HB 1095 P.N. 1127 (KAUFFMAN)

Bill summary: [HB 1095](#) (PN 1127) would create a new mandatory sentence of life imprisonment under [42 Pa. C.S. § 9715](#) for anyone convicted of third-degree murder of an unborn child under [18 Pa. C.S. § 2604](#) who has been previously convicted at any time of murder, voluntary manslaughter, murder of an unborn child, or voluntary manslaughter of an unborn child under [18 Pa. C.S. § 2605](#).

On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to oppose House Bill 1095.

HB 1095 would create new and costly mandatory sentences of life imprisonment.

This bill was [introduced](#) in response to the decision in [Commonwealth v. Haynes](#), 125 A. 800 (Pa. Super. 2015) where a man was found guilty of a third-degree murder for the death of his girlfriend who was seven weeks pregnant at the time. One act, one pregnant victim. But the Commonwealth sought a mandatory life sentence under [42 Pa. C.S. § 9715](#), counting the seven-week old fetus as the first victim, and the woman as the second. The judge refused and sentenced Haynes to 35 to 70 years. Even without the mandatory life sentence, Haynes will be in his 80s or 90s when he is eligible for release, assuming he lives that long. HB 1095 would impose life imprisonment in this case, or any other case, for someone convicted of third-degree murder of a pregnant woman.

The ACLU-PA uniformly opposes mandatory sentences. Mandatory sentences fail to deter crime, waste valuable resources, and take power and discretion from judges and give unreviewable power to prosecutors, since their charging decision determines the sentence. Mandatory life sentences are particularly obscene, since they don't even pretend to rehabilitate or reduce recidivism. They are purely retributive punishments.

And purely retributive punishments are the primary drivers of mass incarceration in PA. Pennsylvania is second in the nation when it comes to people serving life without the possibility of parole ([5,400 people](#)); only Florida outpaces us.¹ More than [1 in 10 people](#) serving death by incarceration sentences in the United States are in Pennsylvania, and Pennsylvania has [two-and-a-half times](#) the rate of people serving death by incarceration than the aggregate national rate.² This rate also contributes to a huge portion of the [state's corrections budget](#). As of December 31, 2020, there were 10,077 people incarcerated in state facilities over the age of 50 — 25.5% of the total population. The annual cost of medication alone for these residents is \$34 million dollars — twice as much for those over 50 than for those under 50.³ Most of the elderly population are incapacitated and not a security threat, but taxpayers must foot the bill to sentence someone to die in our state prisons.

For these reasons, we urge you to oppose House Bill 1095.

¹ Vaughn, Joshua. [What does death by incarceration look like in Pennsylvania?](#) The Appeal, Nov. 20, 2019.

² Abolitionist Law Center, [Abolishing Death By Incarceration in Pennsylvania. A Report on Life Without Parole Sentences](#) (2018).

³ Pennsylvania Department of Corrections, [FY21-22 Budget Testimony](#), pg. 13.