



## MEMORANDUM

TO: The Pennsylvania House of Representatives

FROM: Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

DATE: December 18, 2019

RE: **OPPOSITION TO HB 1855 PN 3055 (BERNSTINE)**

**Bill summary:** For each conviction of a violent offense while incarcerated, [HB 1855](#) PN 3055 delays consideration of parole by adding a mandatory 24 months to the minimum date of release. For convictions related to escape, smuggling of contraband, or witnesses retaliation or intimidation while incarcerated, the bill delays consideration of parole by adding a mandatory 12 months to the minimum date of release.

**On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to oppose HB 1855.**

HB 1855 effectively establishes two separate mandatory sentencing enhancements:

1. For each conviction of a violent offense while incarcerated, the bill delays consideration of parole by adding a mandatory 24 months to the minimum date of release.
2. For convictions related to escape, smuggling of contraband, or witnesses retaliation or intimidation while incarcerated, delays consideration of parole by adding a mandatory 12 months to the minimum date of release.

This would essentially turn every sentence for "violent offense" into a sentence two years longer than it currently is and one year longer for certain "obstruction of justice" offenses. The bill adds these additional years simply because an offense happened to occur in prison - or that a person served their time for a new conviction while incarcerated. This is an arbitrary distinction at best.

But of critical concern is **how** the bill proposes to impose these mandatory sentences. HB 1855 may be construed as a **re-sentencing** — it adds additional years to a minimum after a judge has already sentenced the person. It is unclear where the legislature derives this authority and may create grounds for a constitutional challenge.

HB 1855 needlessly expands the crimes code by establishing mandatory sentences to cast the carceral net as broadly as possible. This escalating trend in the legislature was specifically addressed in our October 2019 report: [More Law, Less Justice](#).<sup>1</sup>

And at the risk of repeating ourselves — decades of research has shown that mandatory minimums do not increase public safety, they do not reduce recidivism, they exacerbate racial disparities, and they circumvent judicial discretion by giving prosecutors unreviewable and unaccountable power. And mandatory minimums come at a huge price to Pennsylvania taxpayers. HB 1855 is yet another attempt to keep the commonwealth in a never ending cycle of expensive, excessively punitive, and demonstrably ineffective sentencing policies.

**For these reasons, we urge you to oppose HB 1855.**

<sup>1</sup> ACLU of Pennsylvania, *More Law, Less Justice*, October 2019, <https://www.aclupa.org/en/publications/more-law-less-justice>.