



## MEMORANDUM

**TO:** The House of Representatives of Pennsylvania

**FROM:** Andy Hoover, Legislative Director, ACLU of Pennsylvania

**DATE:** October 25, 2015

**RE: OPPOSITION TO HOUSE BILL 1601 (VEREB)**

In the near future, the House is likely to consider several bills to reinstate and to slightly revise mandatory minimum sentencing in the Commonwealth's sentencing structure. A decision by the United States Supreme Court deemed the process by which courts reached a sentencing decision unconstitutional. As a result, state courts have overturned existing mandatory minimum sentences in Pennsylvania because they are not in line with the Supreme Court's decision. Now, House Bill 1601 will reinstate much of that sentencing scheme with the constitutionally appropriate process.

The American Civil Liberties Union has a long standing position against mandatory minimum sentencing. It balloons prison populations. It neuters judges and keeps them from using discretion based on circumstances of individual cases. And it fails to deter crime or prevent recidivism. The American Civil Liberties Union of Pennsylvania opposes HB 1601 and respectfully urges you to vote "no" on this bill.

When HB 1601 was first introduced by Representative Vereb, it was a relatively narrow bill that reinstated mandatory minimum sentences for a series of violent offenses. In committee, HB 1601 was amended to add numerous non-violent drug offenses.

In recent years, there has been a great deal of focus on criminal justice reform as a result of ballooning prison populations. The policies of the 1980s and 1990s did not work and have cost the Commonwealth billions of dollars. The General Assembly and previous governors have implemented some reforms to the parole system and slight tweaks to diversionary programs that have plateaued the rise in the state prison population. Those reforms have not led to any significant decrease in the number of inmates in the state and county prisons, however.

Meanwhile, states that have decreased their prison populations have done so by reforming their sentencing structures. New York, for example, has decreased its prison population by 23 percent since 2000 and by nearly nine percent since 2009. The latter drop occurred after a sweeping rollback of its structure of mandatory minimum sentencing for drug offenses.

Since the passage of its own reform in 2010, South Carolina's prison population has dropped 8.2 percent and new prison admissions have dropped 24 percent, at a time when its violent crime rate has also dropped. The South Carolina reform included reducing sentences for drug and property offenses, including repeat offenses, and ending mandatory minimum sentences for most drug sales.

Mississippi passed legislation last year that reduced sentences for drug and property crimes and eliminated numerous restrictions on both diversion and parole eligibility. The legislation is projected to reduce Mississippi's prison population by 10 percent.

Ohio requires as much as ten times the amount of drugs to get a mandatory as Pennsylvania. States from Arkansas to Rhode Island have regularly repealed mandatory minimum sentences for drug offenses over the last decade.

Drug offenses are the single most significant driver of incarceration in Pennsylvania, accounting for 19% of the state prison population and nearly 25% of all prison sentences in 2012.

Despite some slight revisions to existing law, HB 1601 goes in the opposite direction of the trend on criminal justice reform. There is a widespread recognition that mandatory minimums for drug offenses do not deter sellers and users, do not impact recidivism, and do not slow down the drug trade. As has been said many times in the General Assembly, we cannot arrest our way out of this problem.

A mandatory minimum sentence for marijuana, in particular, is the opposite of the trend. Multiple states have legalized recreational use of cannabis. Nearly two dozen states have authorized its use for medicinal purposes, and the General Assembly is currently considering a limited medicinal cannabis policy. The City of Philadelphia decriminalized possession of marijuana a year ago- implementing a small civil fine for possession- and has seen a significant drop in arrest rates and court costs.

To reinstate a mandatory minimum sentence for as little as two pounds or ten live plants, which, notably, the individual may be using for medicinal purposes, is to ignore the latest thinking on drug policy.

Please vote "no" on HB 1601.