



## **Testimony to the Illinois Senate Criminal Law Committee**

September 29, 2020

Chairman Sims and Members of the Committee, thank you for holding this hearing and for the opportunity to provide testimony.

My name is Brian Costin and I am the Deputy State Director of Americans for Prosperity – Illinois. On behalf of thousands of AFP activists across Illinois, I urge you to consider comprehensive sentencing reforms, which can better protect the public and safely reduce Illinois’ prison population, reducing taxpayer burdens.

Holding people who commit crimes accountable is a crucial function of our justice system. But Illinois’ sentencing policies too often ignore another crucial role: making sure punishments are proportionate to the offense and tackling the underlying causes of someone’s criminal behavior. Overly harsh penalties are morally wrong, impractical, and can negatively impact public safety.

Decades of evidence suggests that longer sentences alone have almost no impact on preventing crime.<sup>1</sup> Sentence length has been shown to have little-to-no relationship to recidivism—an incarcerated individual’s age on their release or someone’s certainty of being caught and punished for a crime (not the punishment’s severity) are far stronger measures of recidivism and deterrence.<sup>2</sup>

Unfortunately, Illinois’ mandatory minimum sentencing policies tie judge’s hands, putting more people in prison longer than is necessary without improving public safety. AFP – Illinois recommends the Criminal Law Committee focus on the following changes to improve our state’s sentencing policies.

### **Truth-in-Sentencing reform:**

---

<sup>1</sup> Sentence length as a weak predictor of recidivism/crime deterrence:

<https://www.journals.uchicago.edu/doi/abs/10.1086/599286>;  
<https://www.journals.uchicago.edu/doi/abs/10.1086/599202>;  
<https://www.aeaweb.org/articles?id=10.1257/jel.20141147>;  
[https://scholarship.law.upenn.edu/faculty\\_scholarship/553/](https://scholarship.law.upenn.edu/faculty_scholarship/553/);  
<https://www.bjs.gov/content/pub/pdf/rpr94.pdf>;  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2730969](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2730969)

<sup>2</sup> Age as a predictor of recidivism:

[https://link.springer.com/referenceworkentry/10.1007%2F978-1-4614-5690-2\\_474](https://link.springer.com/referenceworkentry/10.1007%2F978-1-4614-5690-2_474);  
[https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207\\_Recidivism-Age.pdf](https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207_Recidivism-Age.pdf)

Certainty of punishment as a predictor of deterrence:

<https://www.sentencingproject.org/wp-content/uploads/2016/01/Deterrence-in-Criminal-Justice.pdf>

Illinois' Truth-in-Sentencing (TIS) laws, passed in 1998, require incarcerated individuals to serve significant portions of their sentences, regardless of their behavior or participation in rehabilitative programming, removing valuable incentives to improve themselves. Illinois TIS laws compel judges to sentence impacted individuals to between 60% and 85% of their sentences before gaining parole eligibility, while certain sentences are automatically ineligible for parole. The most common TIS offenses require serving 85% of the sentence.<sup>3</sup>

While many TIS-impacted offenses are serious, automatically discounting the possibility that anyone convicted of them can ever rehabilitate in prison guarantees wasted life potential and needless taxpayer burdens of unnecessary incarceration costs. Knowing that over 95% of incarcerated individuals will one day return to society, the public is better served with policies that encourage more of incarcerated individuals to make productive use of their time in prison and rehabilitate.<sup>4</sup> It's no surprise, then, that the Illinois State Commission on Criminal Justice and Sentencing Reform recognized as early as 2016 that TIS laws should be rolled back.<sup>5</sup> Following the Commission's recommendations here should be a top priority for the Criminal Law Committee.

We already know from other states that reducing these rigid guidelines to extend more sentencing flexibility and reduce taxpayer burdens can be done safely. In 2008 and 2013, Mississippi expanded opportunities for sentencing credits, allowing inmates to earn more time credits for participation in programming and to be eligible for parole earlier.<sup>6</sup> Between 2008 and 2018, Mississippi's prison population decreased by over fifteen percent, while violent and property crime both dropped by nearly a fifth.<sup>7</sup>

### **Drug reclassification:**

Choosing to harshly punish drug possession has not historically impacted drug use or overdose rates, nor do draconian penalties in the justice system help incarcerated individuals suffering from addiction overcome substance use disorders. Illinois should move towards a health-based treatment-first approach to drug use rather than using the justice system as the first resort to solve addiction-related problems. At the very least, it should stop punishing simple possession as a felony, as it does for several types of drugs.

Nationwide data on different drug imprisonment rates in different states show no correlation with drug use, arrests or overdose deaths, suggesting the felonizing possession has little to no impact on drug-related public safety issues.<sup>8</sup>

---

<sup>3</sup> <https://restorejustice.org/about-us/resources/know-more/know-more-truth-in-sentencing/>

<sup>4</sup> <https://www.bjs.gov/content/reentry/reentry.cfm>

<sup>5</sup> [http://www.icjia.org/cjreform2015/pdf/CJSR\\_Final\\_Report\\_Dec\\_2016.pdf](http://www.icjia.org/cjreform2015/pdf/CJSR_Final_Report_Dec_2016.pdf)

<sup>6</sup> <https://www.governing.com/mississippi-correction-reform.html>

[https://www.pewtrusts.org/~media/assets/2014/09/pspp\\_mississippi\\_2014\\_corrections\\_justice\\_reform.pdf](https://www.pewtrusts.org/~media/assets/2014/09/pspp_mississippi_2014_corrections_justice_reform.pdf)

<https://www.pewtrusts.org/en/research-and-analysis/articles/2018/05/14/mississippi-enacts-round-2-of-criminal-justice-reform>

<sup>7</sup> [According to the Mississippi Department of Corrections, the average number of inmates between January 2008 and January 2018 fell 15.3%. According to the 2008 and 2018 FBI Uniform Crime Reports, Mississippi's violent crime rate fell 17.7% during that period, while its property crime rate fell 18.2%.](#)

<sup>8</sup> <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/03/more-imprisonment-does-not-reduce-state-drug-problems>

States like Utah in 2015, Oklahoma in 2016, and Colorado in 2019 all passed drug reclassification laws that recategorized simple possession from a felony to a misdemeanor. Utah has seen an overall reduction in crime decrease since, indicating such measures can be taken without harming public safety.<sup>9</sup> Additionally, Oklahoma has experienced significant savings from having to process far fewer felony cases for low-level drug possession.<sup>10</sup>

### **Increasing felony-theft thresholds:**

In Illinois, it is a felony to steal retail goods worth \$300 or more or other property worth \$500 or more. While stealing should be punished, a felony sentence and its serious, lifelong collateral consequences is a disproportionate penalty for shoplifting an expensive pair of shoes or a handbag, both of which could easily meet the felony threshold.

Illinois felony-theft amounts are some of the lowest in the country, despite substantial evidence from the many states that have increased their thresholds between 2000 and 2016 that declining property crime trends nationwide still continued after these reforms.<sup>11</sup> Texas, for instance, increased its felony-theft threshold to \$2,500 in 2015 to keep pace with inflation, and has enjoyed property crime rates at their lowest since the 1960s.<sup>12</sup>

### **Conclusion:**

Americans for Prosperity – Illinois believes that proportionate punishments for crimes are essential to a well-functioning justice system that protects the public, helps more incarcerated individuals contribute to society, and protects taxpayers from unnecessary prison costs. By reforming Truth-in-Sentencing laws, drug possession thresholds, and felony theft penalties, Illinois can safely reduce its prison population and provide better incentives for rehabilitation than currently exist. For these reasons, we urge the Senate Criminal Law Committee to consider reforms on these measures.

Sincerely,

Brian Costin

Deputy State Director

Americans for Prosperity – Illinois

---

<sup>9</sup> <https://bci.utah.gov/wp-content/uploads/sites/15/2019/09/CIU-2018-1.pdf>

<sup>10</sup> <https://okpolicy.org/sq-780-already-reshaping-oklahomas-justice-system/>

<sup>11</sup> <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/04/the-effects-of-changing-felony-theft-thresholds>

<sup>12</sup> <https://files.texaspolicy.com/uploads/2018/08/16101833/PP-Texas-Adult-Corrections-A-Model-for-the-Rest-of-the-Nation.pdf>

FBI data on Texas property crime rates 1960-2019: <http://www.disastercenter.com/crime/txcrime.htm>