



## Minnesota Second Chance Coalition

The Honorable Al Franken  
United States Senate  
309 Hart Senate Office Building  
Washington, D.C. 20510-2304

Senator Franken,

We ask that you support S. 619, the Justice Safety Valve Act, introduced by Senator Rand Paul, and S. 1410, the Smarter Sentencing Act, introduced by Senators Durbin and Lee.

In Minnesota we have a long tradition of limiting the use of incarceration. We know that reserving incarceration for the most serious and violent offenders is cost-effective, produces fairer punishments, and keeps the public safe. We have the second lowest incarceration rate in the country,<sup>1</sup> and also one of the lowest rates of violent crime.<sup>2</sup>

But even in Minnesota our rates of incarceration and conviction have greatly increased over recent decades, we feel the impact of the federal system, and we've made it increasingly difficult for people to be successful once they have been in the criminal justice system. This is why a large and diverse group of Minnesota organizations, over 50, have come together to form the Minnesota Second Chance Coalition to support positive reforms in Minnesota's criminal justice system; this legislation makes similar reforms at the federal level.

Thirty years of using federal mandatory minimum sentencing laws has created serious problems for our criminal justice system, taxpayers, and communities. Our current mandatory minimum laws have locked up hundreds of thousands of nonviolent, low-level, and drug-addicted offenders over the last three decades. These laws treat small-fry and nonviolent offenders as if they were major kingpins or killers. Defendants, and the American public, expect that judges will get to consider all the facts and circumstances of these cases and craft a punishment that fits the crime. They, and we, are shocked to learn that the sentence has already been chosen, and the judge has no say in the matter. The injustice and arbitrariness of mandatory minimum sentences breeds cynicism and erodes public trust in the criminal justice system. The solution is to stop requiring courts to give out so many one-size-fits-all mandatory minimum sentences to so many nonviolent offenders.

Mandy Martinson, the niece and goddaughter of several of your constituents, is but one of many examples of why we need mandatory minimum sentencing reform. Ms. Martinson is serving a 15-year mandatory minimum sentence at the federal prison in Waseca, Minnesota for her first and only criminal conviction. Ms. Martinson became addicted to methamphetamine in the midst of coping with her exit from an abusive dating relationship. Unwisely, she then began dating a different man who was kind to her and provided her with some of the drugs he also sold to others. She counted money for him and let him keep drugs and two handguns at her home. When police arrested this boyfriend, Ms. Martinson was also tried and convicted of drug trafficking and possessing a gun in the course of that offense. She received a mandatory minimum of 10 years for the drug trafficking charge and an additional mandatory sentence of five years for the handguns found in her home, even though she never carried, used, or threatened anyone with the guns herself. Federal judge James Gritzner, a George W. Bush appointee, felt that 10 years instead of 15 would be sufficient for Ms. Martinson. He had no choice but to give her the longer sentence. By the day of her sentencing, Ms. Martinson had completed drug treatment, obtained a steady job, and was leading a sober, productive life once again. Judge Gritzner nonetheless had to send her to prison for 15 years, even though he stated on the record that he felt she was not a threat to the public and was

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<sup>1</sup> Bureau of Justice Statistics, Prisoners in 2012 - Advance Counts, available at <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4737>.

<sup>2</sup> FBI Uniform Crime Reports 2011, available at <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table-4>.

unlikely to reoffend. Ms. Martinson has served seven years of her sentence so far.<sup>3</sup>

The Justice Safety Valve Act, S. 619, would have let Judge Gritzner give Ms. Martinson a sentence befitting a first-time, nonviolent, drug-addicted offender. The Justice Safety Valve Act would fix the shortcomings of our current safety valve, which only applies to some drug offenders. The Justice Safety Valve Act would permit courts to render sentences below the mandatory minimum term whenever doing so would keep the public safe, lead to better rehabilitation, or prevent an unwarranted disparity (such as treating a person who merely possessed a gun as if she had injured someone with it).

Minnesota law has a similar safety valve that permits our state's courts to sentence a person below the state's mandatory minimum sentences for commission of crimes involving a firearm.<sup>4</sup> Courts must have "substantial and compelling reasons" to depart below the mandatory minimum. Application of this safety valve is carefully tracked by our diligent Minnesota Sentencing Guidelines Commission.<sup>5</sup> Between 2001 and 2010, Minnesota's safety valve saved the state the use of 11,743 prison beds, saving taxpayers millions each year.<sup>6</sup> Over that same period, the state's overall crime rate dropped by 24 percent, and the state's violent crime rate dropped by 18 percent.<sup>7</sup>

On a final note, passing the Smarter Sentencing Act, S. 1410, would finish what began when Congress unanimously passed the Fair Sentencing Act in 2010. That law corrected one of the worst sources of racial disparity in the federal sentencing system by replacing the 100:1 crack-powder cocaine disparity with a fairer ratio of 18:1.<sup>8</sup> That reform, nonetheless, has never been applied to the thousands of federal crack offenders still in prison serving those now-repudiated sentences. This is unfair, it is wrong, and we must fix it in this Congress. Receiving a just and rational punishment should not hinge on the date you went to court. Dr. Martin Luther King, Jr., said that "justice delayed is justice denied." We have delayed long enough; let us deny justice no longer.

Please extend our appreciation to Senators from both parties for their strong leadership and inspiring vision for a better sentencing system in our federal courts. Thank you.

Sincerely,



Mark Haase, Co-Chair, MN Second Chance Coalition  
Vice President, Council on Crime and Justice



Sarah Walker, Co-Chair, MN Second Chance Coalition

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<sup>3</sup> See Erin Fuchs, *The Gut-Wrenching Story of an Addict Who Got Clean, Got a Job, and Then Got 15 Years in Prison*, BUSINESS INSIDER, Sept. 13, 2013, at <http://www.businessinsider.com/mandy-martinsons-mandatory-minimum-sentence-2013-9>.

<sup>4</sup> Minn. Stat. § 609.11, subd. 8 (2012).

<sup>5</sup> See, e.g., MINN. SENTENCING GDLNS. COMM'N, SENTENCING PRACTICES: WEAPONS OFFENSES SENTENCED IN 2011 (2012) (describing use of safety valve for offenses involving gun possession), available at <http://mn.gov/sentencing-guidelines/images/2011%2520Weapons%2520Report.pdf>.

<sup>6</sup> MINN. SENTENCING COMM'N, OFFENDERS SENTENCED FOR OFFENSES WITH A MANDATORY MINIMUM UNDER MINN. STAT. § 609.11: 2001-2010 (showing 11,743 prison beds saved as a result of application of the Minn. Stat. § 609.11, subd. 8 safety valve between 2000 and 2010) (on file with author).

<sup>7</sup> Cf. MINN. DEP'T OF PUB. SAFETY, MINNESOTA CRIME INFORMATION 2000 11 (2000), available at (showing an overall crime rate of 3,633 incidents per 100,000 residents, and a violent crime rate of 292 incidents per 100,000 residents), with MINNESOTA DEP'T OF PUB. SAFETY, MINNESOTA CRIME INFORMATION 2010 10 (2010), available at (showing an overall crime rate of 2,797 incidents per 100,000 residents, a 24 percent decrease, and a violent crime rate of 240 incidents per 100,000 residents, an 18 percent drop).

<sup>8</sup> Pub. L. 111-220, 111th Cong. (2010).

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<b>Amicus, Inc.</b>	<b>Minnesota State Public Defender</b>
<b>Antioch Christian Center</b>	<b>National Alliance on Mental Illness of MN</b>
<b>Barbara Schneider Foundation</b>	<b>Network for Better Futures</b>
<b>Council on Crime and Justice</b>	<b>NOLA Criminal Defense Investigation</b>
<b>Central MN Re-Entry Project</b>	<b>Northside Policy Action Coalition</b>
<b>CivicMedia/Minnesota</b>	<b>Pathways Counseling</b>
<b>Children's Defense Fund Minnesota</b>	<b>Peace Foundation</b>
<b>Criminal Justice Working Group</b>	<b>Prison Policy Initiative</b>
<b>Construction Career Training Program</b>	<b>Project for Pride in Living</b>
<b>Correctional Transition Services, Inc.</b>	<b>R3 Collaborative</b>
<b>180 Degrees, Inc.</b>	<b>RS Eden</b>
<b>Elim Transitional Housing, Inc.</b>	<b>Rebuild Resources</b>
<b>Emerge Community Development</b>	<b>St. Paul Federation of Teachers</b>
<b>La Familia Guidance Center</b>	<b>The Reentry Clinic at William Mitchell</b>
<b>Friends for a Nonviolent World</b>	<b>Take Action Minnesota</b>
<b>Goodwill/Easter Seals Minnesota</b>	<b>Twin Cities Rise</b>
<b>Greater Mpls. Council of Churches</b>	<b>Twin Ports Action Coalition</b>
<b>Hired</b>	<b>Wilder Foundation JobsFirst Program</b>
<b>Jacob Wetterling Resource Center</b>	<b>Wilderness Inquiry</b>
<b>Jason Sole Consulting</b>	<b>YWCA of St. Paul</b>
<b>Joint Religious Legislative Coalition</b>	<b>MN Association of Criminal Defense Lawyers</b>
<b>L.I.F.E in Recovery</b>	<b>MN Community Corrections Association</b>
<b>MAD DADS Minneapolis</b>	<b>Minnesota Fathers &amp; Families Network</b>
<b>Minneapolis Urban League</b>	<b>Minnesota Catholic Conference</b>
<b>Minnesota Adult and Teen Challenge</b>	<b>Minnesota Coalition for the Homeless</b>
<b>MN Juvenile Justice Advisory Committee</b>	<b>Minnesota Community Action Partnership</b>