

The Smarter Sentencing Act

Senate Judiciary Chair Dick Durbin (D-IL) and Senator Mike Lee (R-UT)

The federal prison population has increased by more than 500 percent since the war on drugs began 50 years ago. Mandatory minimums are driving this costly and ineffective practice of mass incarceration. As a result, nearly half of all federal inmates are serving sentences for drug offenses. In 2019, more than two-thirds of drug offenders were convicted of an offense carrying a mandatory minimum penalty.

Overcrowding in federal prisons places the safety of both correctional officers and inmates at risk, and the cost of incarceration diverts important resources needed for law enforcement and crime prevention. Federal incarceration has become one of our nation's biggest expenditures, swallowing the budget of law enforcement.

Incarceration and detention costs account for nearly a third of the Department of Justice's discretionary budget. It costs an average of \$39,365 a year to house just one federal inmate, almost *four times* the average yearly cost of tuition at a public university. We need to be smarter about our sentencing practices, focusing limited resources on those who present the greatest public safety risks.

In 2011, the bipartisan U.S. Sentencing Commission said: “[T]he Commission unanimously believes that certain mandatory minimum penalties apply too broadly, are excessively severe, and are applied inconsistently” Many judges agree—one survey found that over 60% of federal district court judges believe that existing mandatory minimums for all offenses are too high. Federal sentencing policies that are costing taxpayers dearly without making our families and communities safer must be updated.

The bipartisan *Smarter Sentencing Act* takes some important steps towards modernizing drug sentencing policy by:

- ***Increasing individualized review for certain drug sentences:*** The Smarter Sentencing Act lowers certain drug mandatory sentences, allowing federal judges to determine, on a case-by-case basis, when the harshest penalties should apply. The Act does not repeal any mandatory minimum sentence and does not lower any maximum sentence. This approach reserves the option to dole out the harshest penalties where circumstances warrant, while allowing judges to moderate sentences based on individual circumstances. These changes do not apply to penalties for violent offenses.
- ***Focusing criminal justice funding in the right places:*** The Smarter Sentencing Act requires the Department of Justice to report as to how reduced expenditures on federal corrections and the costs savings resulting from the Act will be used to increase investment in law enforcement and crime prevention, and help reduce recidivism, thereby increasing the effectiveness of criminal justice spending.