



The Facts about Mandatory Minimum Drug Laws in Florida: A Failure of Public Safety, Public Health, and Fiscal Responsibility

Florida's mandatory minimum drug laws are among the harshest in the country and require courts to impose "one size fits all" sentences on drug offenders, regardless of their role in the crime, need for treatment, or prior criminal record. For example, being convicted of possessing over 28 grams of illegal prescription drugs (approximately the weight of half of a candy bar) requires a minimum sentence of 25 years in prison, regardless of whether there are any extenuating circumstances. In contrast, possession of 28 grams of illegal prescription drugs in Texas requires a minimum sentence of 2 years.

Nor are these sentences proportional to the punishments meted out in the rest of the Florida Statutes. Despite the fact that possessing 28 grams of illegal prescription drugs is a non-violent crime which may have been committed by a first-time offender as a result of drug addiction, the 25-year mandatory minimum sentence required in this case is the same 25-year mandatory sentence required when an adult engages in lewd or lascivious molestation of a child under 12.

Mandatory minimum drug laws are a public safety and public health failure.

- For many years, Florida has engaged in an experiment to see if mandatory minimum drug laws deter drug usage and drug offenses. We now know they don't. Drug use and drug offenses keep increasing; in FY 2007-2008, almost 30% (11,872) of all people entering Florida's prisons did so for a drug offense – the largest category of any type of offender and a 22% increase from the number admitted just 5 years ago.¹ Over half (52.7%) of the drug offenders entering prison had never been to prison before.² Over 20,000 people – 20% of the prison population – were serving time for a drug offense,³ an almost 5% increase in the number of drug prisoners since 1998.⁴
- Drug crimes, in general, and drug possession charges, in particular, are the most prevalent criminal charges filed in Florida. In 2002, 37,667 criminal charges were filed for drug possession alone.⁵ Over 60% of all people arrested are under the influence of, or have committed the crime to gain access to, drugs and alcohol.⁶
- Florida drug courts significantly reduce recidivism rates.⁷ In a recent study, offenders who successfully graduated from post-adjudicatory drug courts in 2004 were 80% less likely to go to prison than a comparison group of offenders who were originally sentenced to probation.⁸ In addition, Broward County reports a 19% recidivism rate for drug court graduates, Palm Beach County reports a 6% recidivism rate for graduates, and Escambia County reports a 12% recidivism rate.⁹ Yet despite the success of drug courts

in Florida, only 25% of persons charged with possession of a controlled substance are potentially eligible for drug court.¹⁰

Mandatory minimum drugs laws are a failure of fiscal responsibility.

- There were almost 100,000 people in Florida's prison system as of June 2008¹¹ – a 5.8% increase from the previous year and an almost 20% increase from five years ago.¹² Florida's prison system is growing faster than that of any other state and consumed 9.3 percent of the entire state budget in 2007. In 1987, for every dollar spent on higher education, the State of Florida spent 34 cents on corrections. Today, that cost has nearly doubled to 66 cents.
- Florida's prison population is growing faster than any other state and if current prison population growth continues unabated, Florida will need to build as many as nineteen new prisons over the next five years.
- It costs an average of \$20,100 to house a state prisoner in Florida.¹³ Because 5,859 people were serving mandatory minimum drug sentences in Florida prisons,¹⁴ this costs the state over \$117 million each year.

¹ FLORIDA DEP'T OF CORRECTIONS, 2007-2008 ANNUAL REPORT 34, 37 (2008), *available at* <http://www.dc.state.fl.us/pub/annual/0708/index.html> (last visited June 10, 2009).

² *Id.* at 37.

³ *Id.* at 50.

⁴ *Id.* at 54.

⁵ FLORIDA SUPREME COURT, TASK FORCE ON TREATMENT-BASED DRUG COURTS, REPORT ON FLORIDA'S DRUG COURTS 2 (July 2004), *available at* http://www.flcourts.org/gen_public/family/drug_court/bin/taskforcereport.pdf (last visited June 11, 2009).

⁶ *Id.* at 2.

⁷ *Id.* at 11.

⁸ OFFICE OF PROGRAM POLICY ANALYSIS & GOVERNMENT ACCOUNTABILITY, STATE'S DRUG COURTS COULD EXPAND TO TARGET PRISON-BOUND ADULT OFFENDERS, Report No. 09-13 (March 2009).

⁹ FLORIDA SUPREME COURT, TASK FORCE ON TREATMENT-BASED DRUG COURTS, REPORT ON FLORIDA'S DRUG COURTS 11 (July 2004), *available at* http://www.flcourts.org/gen_public/family/drug_court/bin/taskforcereport.pdf (last visited June 11, 2009).

¹⁰ *Id.* at 5

¹¹ *Id.* at 7.

¹² *Id.* at 49.

¹³ FLORIDA DEP'T OF CORRECTIONS, 2007-2008 ANNUAL REPORT 15 (2008), *available at* <http://www.dc.state.fl.us/pub/annual/0708/index.html> (last visited June 10, 2009).

¹⁴ FLORIDA DEP'T OF CORRECTIONS, personal correspondence with Philip Coltharp (June 10, 2009). These numbers are based on offenders within Florida DOC custody as of June 5, 2009.