



March 17, 2025

Chairman Klemin and members of the House Judiciary committee,

### Background

As the nation's oldest conservative grassroots organization, the Conservative Political Action Coalition (CPAC) support efforts to promote public safety through accountability and redemption. As conservatives, we also believe in limiting the size and scope of government, reducing unnecessary spending of the taxpayers' money, and preserving the idea that government closest to the voters is most responsive to their needs. It is in this context that we write to express our concerns about [SB 2128](#).

### Issue Overview

As drafted, SB 2128 makes substantial changes to the state's penal code. The bill mandates that individuals serve 85% of their sentence in prison (known as "Truth in Sentencing" or "TIS") and adds dozens of non-violent offenses to be held to this standard. It would preclude time spent in halfway houses or transitional facilities from counting toward the sentence imposed. SB 2128 would reduce the ability of the Department of Corrections to offer incentives to get inmates to participate in proven anti-recidivism programming such as addiction treatment, job training, or mental health programs. Finally, it would establish mandatory minimums for certain offenses, including fleeing a peace officer and assaulting one. Those convicted of either fleeing or assaulting a law enforcement officer would have to serve the mandatory minimum sentence, imposed consecutively to any underlying sentences.

The [Fiscal Note for SB 2128](#) indicates that it would increase government spending by over \$40 million between 2025-2029 - an estimate that will likely grow.

### So-Called "Truth in Sentencing"

With respect to the 85% requirement, we have seen similar TIS provisions in use in other states. However, there has been very little quality research assessing the outcomes driven by minimum time served requirements. Indeed, according to the data analytics firm [Recidiviz in a 2022 review](#):

Because there are few credible papers that estimate causal effects of TIS laws on outcomes for justice-involved individuals, we find it important to highlight the highest quality research on this topic to best inform decision makers. These two natural experiments from two different states find effectively the same unintended and critical consequences. ***Truth in Sentencing reduces incentives to complete rehabilitative programming, increases risk to safety for correctional officers and individuals in prison, and increases recidivism. If the goal of TIS is to increase public safety, these consequences may cause the policy to backfire.*** (Emphasis added.)

### Eliminating Incentives for Anti-Recidivism Programming

According to the North Dakota Department of Corrections, the [state's recidivism rate remains stubbornly high](#) at approximately 40%. Because every case of re-offending means another crime, another victim, and often another costly prison cell, reducing recidivism is the key to cutting crime *and* unnecessary spending.

Indeed, that was the working principle behind President Trump's signature criminal justice bill, the First Step Act. First Step provides a mechanism for prisoners to earn credits towards early release to home confinement by taking anti-recidivism programming. Six years later, it is clear that the Trump approach has worked.

An analysis conducted in December 2024 by the non-partisan Council on Criminal Justice indicated that similarly situated inmates who had taken programming under the First Step Act and earned early release had a 55% lower recidivism rate compared to those who did not.

We believe the most effective path to recidivism reduction in North Dakota is to adopt an approach similar to that used by President Trump to improve performance of the federal system. That is, create incentives to encourage inmates to do the hard work of self-improvement so that they leave prison ready to work and become law abiding members of the community. Unfortunately, SB 2128 does just the opposite. It would prohibit the use of earn time credits to incentivize anti-recidivism programming, which will almost certainly lead to an increase in the number of repeat offenders.

#### Imposition of Mandatory Minimums

SB 2128 would set mandatory minimum sentences for certain crimes – including evading and assaulting a law enforcement officer. To be clear, we have no compunction about holding people accountable for their actions. Evading a police officer is serious. Assaulting one is even more so. People who act in such a way merit meaningful punishments ... to be issued by trial judges, not the prosecutors.

Taking the discretion out of the hands of judges under the rubric of mandatory minimums is seductively simple. However, reliance on mandatory minimums is a one-size-fits-all solution to a criminal problem. Such an approach to sentencing not only removes needed flexibility in the system to actually do justice, it predictably leads to higher incarceration costs and prison overcrowding.

Every crime is unique because individual victims, defendants, and case circumstances are unique. Our belief is that judges should have the power to mete out sentences based on all the facts and circumstances. In fact, that is why we pay judges; to use their judgment to do justice rather than apply a mathematical formula. If a judge is too harsh or too lenient, there is recourse at the ballot box.

#### Conclusion

While well intended, SB 2128 would have negative consequences for the taxpayers and residents of North Dakota. It would prohibit incentives that have been proven to reduce recidivism. And it would likely lead to higher incarceration costs to be borne by the taxpayers. All without any definitive proof that it would lead to safer communities. We urge you to reject this legislation and stand ready to work with you on legislation that is beneficial to North Dakotans safety and prosperity.

Thank you for your attention and consideration to this critical issue,

Patrick Plein

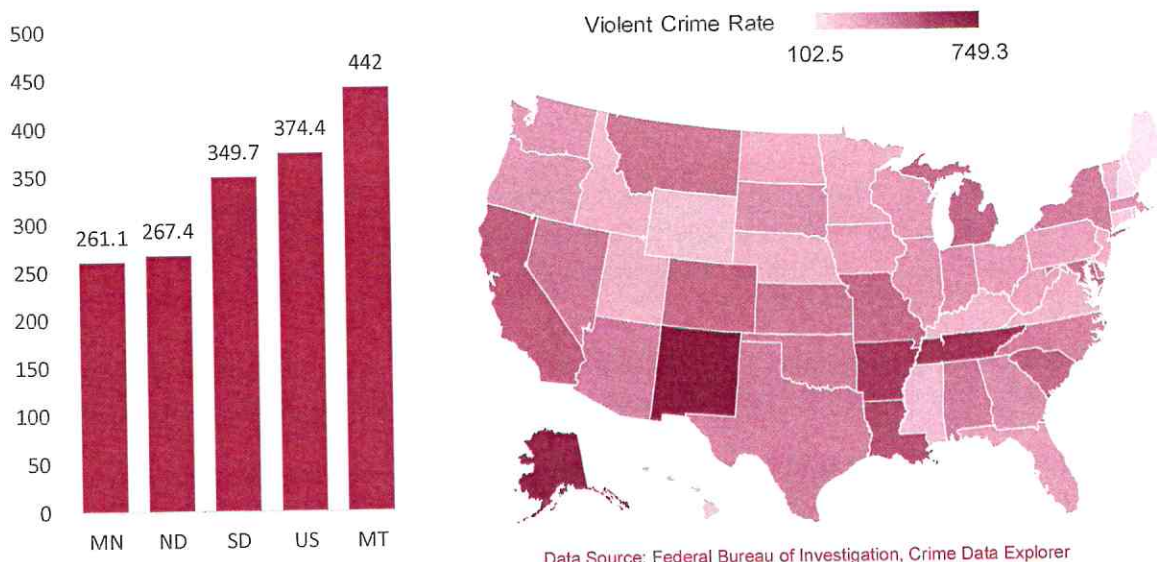


Director, CPAC - Nolan Center for Justice

## How Does North Dakota's Violent Crime Rate Compare to the National Rate?

- North Dakota's violent crime rate has been **consistently lower** than the national violent crime rate and was **33% lower** than the national rate in 2023.
- In 2023, North Dakota's violent crime rate was **the 18<sup>th</sup> lowest** in the nation, lower than that of South Dakota and Montana.

### 2023 Violent Crime Rates per 100,000



## How Has Violent Crime Changed in North Dakota in Recent Years?

- North Dakota's violent crime rate has **declined every year since 2020**.
- North Dakota's violent crime rate **decreased by 19%** from 2020 to 2023, while the national violent crime rate decreased by 6%.

## How Does North Dakota Handle Violent Offenders?

- North Dakota's **most violent offenders have had an 85% time served requirement for decades**. These people make up a *very small* percentage of the population that is entering prison. For example, in 2023, they represented **less than 5%** of prison admissions.

## Does SB 2128 Target Violent Offenders?

The scope of SB 2128 reaches **far beyond** the dangerous, violent criminals.

- If the policies in SB 2128 had been implemented in the last biennium, they would have **increased prison time and delayed access to reentry services for more than 1,000 people** who came to prison in 2023.
- Based on 2023 data, **more than half** of those who would have been impacted by these policies were people sentenced to prison for **non-violent offenses**.

## How Does SB 2128 Handle Crime?

**SB 2128 handles crime only by incapacitating people for longer periods of time.**

The bill does not offer any solutions to address an offender's underlying needs to prevent crime from happening in the future.

- SB 2128 **takes away** access to critical transitional services and reentry support for people who are currently assessed as being **the safest to be back in the community**.
- Instead of allowing comprehensive assessments of risk, escape history, prior criminal activity, and institutional behavior to inform housing placement and access to transitional opportunities, **SB 2128 requires decisions to be based solely on time served**.
- SB 2128 **limits meaningful rewards** that incentivize people to work hard in prison to help others and turn their own lives around for the better.

## What Will SB 2128 Cost North Dakotans?

- The second engrossed version of SB 2128 is projected to cost taxpayers **\$44 million** by 2029, without factoring in costs for additional space that will be needed to house the population that will be required to reside within prison walls instead of transitional facilities.
- Requiring inmates convicted of non-violent offenses to serve at least 50% of their sentence inside prison walls **will force North Dakotans to pay for more prison space**. That means building new facilities on North Dakota soil, sending money to other states to house the overflow population, or even worse, **doing both**.



# Truth in Sentencing

## Frequently Asked Questions (FAQs)

### Q: What is Truth in Sentencing?

*A: First enacted in 1984, Truth in Sentencing (TIS) laws are a form of determinate sentencing where incarcerated individuals are required to serve a substantial portion of their sentence, generally 85%, prior to release. Under this model, parole eligibility and good time credits are restricted or outright eliminated.*




### Q: Does North Dakota Use Truth in Sentencing Currently?

*A: Yes. Anyone sentenced for a violent offense, including murder, manslaughter, aggravated assault, kidnapping, gross sexual imposition, or robbery, is currently required to serve 85% of their sentence in North Dakota. In 2023, at least 15% of the state prison population was serving a TIS term.*

**"WE NEED TO ADDRESS THE OVERCROWDING IN OUR CORRECTIONAL SYSTEM. WE CANNOT BUILD OUR WAY OUT OF THIS. WE NEED AN APPROACH THAT'S SMART ON CRIME, NOT SOFT ON CRIME. FINDING PRACTICAL SOLUTIONS THAT WILL INCREASE ACCESS TO SERVICES WHILE REDUCING THE RELIANCE ON OUR JAILS AND PRISONS AS TREATMENT CENTERS IS A TOP PRIORITY OF OUR ADMINISTRATION."** -Governor Kelly Armstrong, 2025 State of the State Address

### Q: Why have states moved away from TIS?

*A: Over time, most states realized that TIS resulted in larger prison populations at tremendous cost with little evidence of improved public safety or reduced recidivism. Here are three examples of state experiences under TIS models.*

	State Spotlight	Impacts of TIS
Wisconsin		<ul style="list-style-type: none"> <li>14% growth in the prison population</li> <li>Annual corrections budget reached \$2.25 Billion</li> <li>Severe programming shortage</li> </ul>
Georgia		<ul style="list-style-type: none"> <li>Dangerous environment within prisons</li> <li>More crime committed upon re-entry</li> <li>Significantly higher reincarceration rates</li> </ul>
Arizona		<ul style="list-style-type: none"> <li>50% increase in rule infractions</li> <li>20% reduction in education program enrollment</li> <li>Higher rate of reincarceration</li> </ul>

