

January 17, 2025

Re: SB 2128

Madam Chair Larson and Members of the Senate Judiciary Committee,

We, the undersigned organizations, write to express our strong opposition to SB 2128. While we share a commitment to ensuring public safety and accountability, SB 2128 introduces punitive sentencing policies that are not only counterproductive but also impose significant budgetary, economic, and societal costs. SB 2128 undermines rehabilitation and weakens the potential of the economic workforce.

The imposition of a so-called “truth in sentencing” (TIS) requirement for all sentences eliminates critical opportunities for rehabilitation and reintegration. By excluding halfway houses and transitional facilities from the definition of “corrections facilities,” this provision ensures prolonged incarceration without addressing underlying causes of criminal behavior. The opportunity of employment in transitional facilities is directly related to an individual’s risk of recidivism.

Extensive research demonstrates that longer sentences do not deter crime but, by decreasing incentives for rehabilitation, instead increase recidivism rates and make prisons less safe. For example, an April 2024 study of Arizona’s “truth in sentencing” requirement found an increase in rule infractions, a decrease in educational enrollment, and an increase in recidivism. As the author notes, “TIS runs contrary to public policy aimed at reducing reoffending among those convicted and incarcerated.”¹

Mandatory minimum sentences for offenses such as fleeing a peace officer creates a one-size-fits-all sentencing regime for a prison system that is already overcrowded and overburdened. Mandating that sentences run consecutively results in disproportionately harsh outcomes for low-level and nonviolent offenders, particularly those with mental health or substance use disorders. Consecutive sentencing requirements further strain the North Dakota corrections system at a moment when the Department of Corrections and Rehabilitation is already prioritizing admissions because of prison overcrowding.²

The anticipated costs of implementing these provisions is substantial—nearly \$50 million per year over four years. Prolonged incarceration, reduced opportunities for early release, and increased administrative burdens will strain North Dakota’s correctional system and divert resources from evidence-based strategies that effectively reduce recidivism and enhance public safety. In addition, the bill’s mandatory quarterly reporting requirements will further increase administrative expenses without meaningful benefits.

Instead of enacting SB 2128, we urge the legislature to preserve powerful incentives for rehabilitation while incarcerated and retain judicial discretion to ensure sentences reflect the unique circumstances of each case. SB 2128 represents a regressive step in criminal justice policy that prioritizes punishment over rehabilitation at a steep cost to taxpayers and North Dakota’s overburdened prisons. We urge you to reject this bill and instead support initiatives that promote fairness, rehabilitation, and public safety.

We welcome the opportunity to discuss alternative approaches and collaborate on policies that foster a more equitable and effective justice system.

If you have any questions about our position on SB 2128, please contact Due Process Institute Vice President Jason Pye at jason@idueprocess.org.

¹ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4806765

² <https://www.nd.gov/news/nd-docr-enters-prioritization-inmates-admissions-continue-exceed-capacity-state-run>

Sincerely,

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