



January 17, 2025

Re: SB 2128

Dear members of the Senate Judiciary Committee:

I write to you today to express concern about the policies included in SB 2128, recently introduced by the Senate Judiciary Committee of North Dakota's Legislative Assembly.¹ Right On Crime is a national campaign of the Texas Public Policy Foundation that supports conservative criminal justice solutions resulting in less crime, fewer victims, and safer communities. Right On Crime believes prison systems should function to not only punish and deter dangerous offenders and career criminals, but should also help nonviolent, low-risk offenders reenter society successfully, ending the cycle of recidivism through rehabilitation. It is with these principles in mind that Right On Crime urges the North Dakota Legislative Assembly to consider amending SB 2128 to ensure some discretion continues to exist in sentencing.

Several sections of SB 2128 restrict or eliminate discretion in prison release—commonly referred to as truth-in-sentencing laws. Since 1995, North Dakota has had a version of truth-in-sentencing laws requiring most violent offenders to serve 85% of their prison term.² However, SB 2128 dramatically expands the reach of truth-in-sentencing, expanding the 85% time served requirement to almost every felony offense.

While truth-in-sentencing is often touted as a pro-public safety policy, it instead has been proven to prevent meaningful opportunities to reduce recidivism and increase public safety.

First, truth-in-sentencing laws remove incentives for people to rehabilitate themselves while incarcerated. SB 2128's provisions mean that after completing 85% of a sentence, you are released no matter whether you have meaningfully contributed to your rehabilitation while incarcerated and are a low risk to public safety. Under truth-in-sentencing, an offender can sit in a cell for the entire sentence and still be released without taking a class, learning a trade, or doing anything to educate themselves to prepare to succeed upon release. The lack of incentives to rehabilitate not only hampers reentry but can also lead to worse behavior while incarcerated. If SB 2128 passes, North Dakotans behind bars will have no incentive to prepare for a better life beyond prison.

More than 95% of inmates are eventually released from incarceration and reenter society. However, the length of time someone spent in prison has no impact on public safety or crime prevention upon release. Researchers have found no evidence that long sentences discourage people from committing crimes.³ In fact, it is the *certainty* of being caught, not the length of the punishment, that deters crime.⁴ Recent research has even concluded that truth-in-sentencing laws are associated with higher recidivism.⁵

¹ https://ndlegis.gov/assembly/69-2025/regular/bill-overview/bo2128.html?bill_year=2025&bill_number=2128.

² North Dakota Century Code Section 12.1-32-09.1.

³ U.S. Department of Justice, Office of Justice Programs, National Institute of Justice (2016). Five Things About Deterrence. <https://www.ojp.gov/pdffiles1/nij/247350.pdf>.

⁴ *Id.*

⁵ Macdonald, D.C. (2024). *Truth in Sentencing, Incentives and Recidivism*, https://direct.mit.edu/rest/article-abstract/doi/10.1162/rest_a_01538/125419/Truth-in-Sentencing-Incentives-and-Recidivism?redirectedFrom=PDF.

So truth-in-sentencing laws are not supported by data or research to improve public safety, and may even have the opposite effect.

Second, the bill's language is too broad, covering nearly all felony convictions in the state. This would treat a non-violent offender suffering from substance use disorder and a violent predator the same. Truth-in-sentencing removes discretion for judges to consider the specific crime, the individual's unique circumstances, and any considerations for long-term, positive outcomes for the offender, victim, and society. A less rigid sentencing framework will allow sentences to remain consistent but tailored to individual needs.

A number of other states have truth-in-sentencing laws in place despite little evidence of their efficacy. For example, Arizona has had truth in sentencing laws since 1994. Since its implementation, corrections costs have skyrocketed. In fact, Arizona taxpayers have spent over \$1.3 billion per year on incarceration.⁶ But the return on investment has been dismal. In fact, today, there are more people incarcerated in Arizona than before truth-in-sentencing laws were implemented and the recidivism rates are higher.⁷ Similarly in Georgia, when truth-in-sentencing laws replaced parole, there was a 15% increase in prison rule violations, a 14% decline in rehabilitative program participation, and 5-7% increase in recidivism rates.⁸

Right On Crime recommends that the North Dakota Legislative Assembly works to improve SB 2128 by either eliminating or dramatically revising the language that expands truth-in-sentencing laws. It is our joint goal to create a safer and more prosperous future for North Dakotans and we believe that we can. Changes to SB 2128 can be made to make our communities safer. Right On Crime appreciates your consideration and we stand at the ready to be of assistance on this legislation and other criminal justice issues.

Sincerely,

Rachel Wright
National Policy Director

⁶ https://rightoncrime.com/wp-content/uploads/2022/02/Truth-In-Sentencing_OnePager_20220211.pdf

⁷ *Id.*

⁸ Kuziemko, I. (2013). How should inmates be released from prison? An assessment of parole versus fixed-sentence regimes, *The Quarterly Journal of Economics*, 128(1), 371–424.
https://kuziemko.scholar.princeton.edu/sites/g/files/toruqf3996/files/kuziemko/files/inmates_release.pdf.