

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1364

2001 HOUSE JUDICIARY

HB 1364

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1364

House Judiciary Committee

☐ Conference Committee

Hearing Date 01-30-01

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|--------------|
| TAPE I | | x | 2199 to 4223 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Joan Diers</i> | | | |

Minutes: Vice Chairman Kretschmar opened the hearing on HB 1364. Relating to mandatory terms of imprisonment.

Rep Frandk Wald: District 37, Dickenson. Changes the state law regarding mandatory sentencing first time drug offenders, page 1 line 15. We have tied the hands of judges regarding this offence. He passed out a handout (see attached) and spends some time going over the handout. What we have is not working so it is time to make a change.

Rep Maragos: I support this bill.

Vice Chair Kretschmar: Are there any questions, if not thank you for appearing.

Rep Mearle Boucher: District 9 Rolette. Spoke in support of HB 1364.

Rep Delmore: Spoke in support of the bill.

Rep Boucher: This bill is not "soft on crime" just giving the courts of flexibility.

Rep Onstad: On the line 15 and 16, should that say for first offense?

Rep Boucher: what line are you on.

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House Judiciary Committee
Bill/Resolution Number HB 1364
Hearing Date 01-30-01

Rep Boucher: It becomes re-numbered.

Vic Chairman Kretschmar: Any other questions, if not thank you for appearing

Ken Sorenson: General Counsel for the Department of Corrections. Submitted written testimony
fro Elaine Little.

Vice Chair Kretschmar: Anyone else wishing to testify on HB 1364. We will close the hearing on
HB 1364. What are the wishes of the committee.

Rep Maragos: moved a DO PASS on HB 1364. Rep Grande and Rep Delmore seconded. Clerk
will call the roll on a DO PASS motion on HB 1364. The Motion passes with 15 yes 0 NO and)
absent. Carrier will be Rep Grande.

FISCAL NOTE

Requested by Legislative Council
02/02/2001

REVISION

Bill/Resolution No.: HB 1364

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 1999-2001 Biennium | | 2001-2003 Biennium | | 2003-2005 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$0 | | \$0 | | \$0 |
| Appropriations | \$0 | \$0 | | \$0 | | \$0 |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 1999-2001 Biennium | | | 2001-2003 Biennium | | | 2003-2005 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

House Bill No. 1364 deletes first time drug offenders from the mandatory-minimum sentencing for drug offenders who manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance. Based upon information available to the Department it is difficult to ascertain whether an inmate is a first time drug offender. However, based upon the data available we estimate that approximately 51 offenders sentenced to the DOCR in Year 2000 were first time mandatory-minimum sentenced drug offenders. It is not possible to determine how many of these offenders would have been diverted from prison through adoption of HB No. 1364, however, we believe it is safe to assume that at least some offenders, as first time drug offenders, would not have been sentenced to prison. The data shows that nine first time mandatory-minimum sentenced offenders received a sentence of a year and a day. If these first time offenders were diverted from prison through HB1364 the savings to the State in costs of incarceration averted would be \$270,000 per biennium (9offendersx\$50perdayx300daysx2years). If 50% of the first time mandatory-minimum sentenced offenders were not sentenced to prison the savings in costs of incarceration averted would be \$750,000. The actual savings to the Department of Corrections during the first biennium would be less because it would take a few months until

offenders would be sentenced under the HB1364, and savings for female offenders diverted would be reduced since the Department has open female beds at this time.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See narrative above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

See narrative above.

| | | | |
|----------------------|---------------|-----------------------|----------------------|
| Name: | Elaine Little | Agency: | Dept. of Corrections |
| Phone Number: | 328-6390 | Date Prepared: | 02/02/2001 |

FISCAL NOTE

Requested by Legislative Council

01/22/2001

Bill/Resolution No.: HB 1364

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 1999-2001 Biennium | | 2001-2003 Biennium | | 2003-2005 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$0 | | \$0 | | \$0 |
| Appropriations | \$0 | \$0 | | \$0 | | \$0 |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 1999-2001 Biennium | | | 2001-2003 Biennium | | | 2003-2005 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

House Bill No. 1364 deletes first time drug offenders from the mandatory-minimum sentencing for drug offenders who manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance. Based upon information available to the Department it is difficult to ascertain whether an inmate is a first time drug offender. However, based upon the data available we estimate that approximately 51 offenders sentenced to the DOCR in Year 2000 were first time mandatory-minimum sentenced drug offenders. It is not possible to determine how many of these offenders would have been diverted from prison through adoption of HB No. 1364, however, we believe it is safe to assume that at least some offenders, as first time drug offenders, would not have been sentenced to prison. The data shows that nine first time mandatory-minimum sentenced offenders received a sentence of a year and a day. If these first time offenders were diverted from prison through HB1364 the savings to the State in costs of incarceration averted would be \$270,000 per biennium (9offendersx\$50perdayx300daysx2years). If 50% of the first time mandatory-minimum sentenced offenders were not sentenced to prison the savings in costs of incarceration averted would be \$750,000. The actual savings to the Department of Corrections during the first biennium would be less because it would take a few months until offenders would be sentenced under the HB1364, and savings for female offenders diverted would be reduced since the Department has open female beds at this time.

The Department does not have the data necessary to calculate the impact of increasing the mandatory-minimum sentence for offenders who deliver a controlled substance within 1000 feet of a school and for offenders who are at least 21 years of age and sell to persons under 18 years of age. However the additional cost to house just one offender the additional four years provided under this amendment would

be \$61,200 or \$30,600 each biennium. The Department estimates that at least 2 offenders each year are sentenced for selling within 1000 feet of a school and that at least 4 offenders at least 21 years of age would be sentenced for selling to a person under 18 years of age. The additional cost for these two provisions using these assumptions would be \$219,000 (6x365daysx2yearsx\$50perday) per biennium.

The expenditures or appropriation required saved under HB 1364 will be dependent upon which provisions of the bill are adopted or rejected.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See narrative above.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

See narrative above.

| | | | |
|----------------------|---------------|-----------------------|----------------------|
| Name: | Elaine Little | Agency: | Dept. of Corrections |
| Phone Number: | 328-6390 | Date Prepared: | 01/28/2001 |

Date: 01-30-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB-1364

House JUDICIARY Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Maragos Seconded By Rep Grande & Delmore

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------------|-----|----|-----------------|-----|----|
| CHR - Duane DeKrey | ✓ | | | | |
| VICE CHR -- Wm E Kretschmar | ✓ | | | | |
| Rep Curtis E Brekke | ✓ | | | | |
| Rep Lois Delmore | ✓ | | | | |
| Rep Rachael Disrud | ✓ | | | | |
| Rep Bruce Eckre | ✓ | | | | |
| Rep April Fairfield | ✓ | | | | |
| Rep Bette Grande | ✓ | | | | |
| Rep G. Jane Gunter | ✓ | | | | |
| Rep Joyce Kingsbury | ✓ | | | | |
| Rep Lawrence R. Klemin | ✓ | | | | |
| Rep John Mahoney | ✓ | | | | |
| Rep Andrew G Maragos | ✓ | | | | |
| Rep Kenton Onstad | ✓ | | | | |
| Rep Dwight Wrangham | ✓ | | | | |

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep Grande

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 30, 2001 11:10 a.m.

Module No: HR-16-1900
Carrier: Grande
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1364: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1364 was placed on the
Eleventh order on the calendar.

2001 SENATE JUDICIARY

HB 1364

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1364

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 5th, 2001

| Tape Number | Side A | Side B | Meter # |
|---------------------------|--------|--------|-----------|
| I | | x | 22.6-34.8 |
| | | | |
| | | | |
| Committee Clerk Signature | | | |

Minutes: **Senator Traynor** opened the hearing on HB 1364: A BILL FOR AN ACT TO AMEND AND REENACT SECTIONS 19-03.1-23 AND 19-03.1-23.2 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO MANDATORY TERMS OF IMPRISONMENT.

Rep. Wald, district 37, (testimony attached) prime sponsor of the bill.

Senator Traynor, has mandatory sentence on first offense reduced the use of drugs?

Rep. Wald, I don't know. Kids make mistakes. I've made them. I don't know what impact this would have.

Ellaine Little, Director of the Department of Corrections and Rehabilitation, supports the bill.
(testimony attached)

Senator Trenbeath, when this law was put into effect were you in favor of this bill?

Ellaine Little, no I was probably the only one who was opposed to mandatory sentencing at that time.

Page 2
Senate Judiciary Committee
Bill/Resolution Number 1364
Hearing Date march 5, 2001

Senator Watne, you stated that this will make it easier for the judges to impose sentences.

Ellaine Little, I would disagree with you. Judges tend to sentence stringently, one or two might be lenient **Traynor** closed the hearing on HB 1364.

Discussion followed.

SENATOR LYSON MOTIONED TO DO PASS, SECONDED BY SENATOR BERCIER.

VOTE INDICATED 6 YEAS, 0 NAYS AND 1 ABSENT AND NOT VOTING. SENATOR

LYSON VOLUNTEERED TO CARRY THE BILL.

Roll Call Vote #:

BILL/RESOLUTION NO. 1314

| | | | |
|--------|------------------|--|-----------|
| Senate | <u>Judiciary</u> | | Committee |
|--------|------------------|--|-----------|

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken DP

Seconded
By

[illegible]

Total (Yes) 6 No 1

Absent

Floor Assignment 5-150N

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 5, 2001 3:16 p.m.

Module No: SR-37-4854
Carrier: Lyson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1364: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1364 was placed on the
Fourteenth order on the calendar.

2001 TESTIMONY

HB 1364



DEPARTMENT OF CORRECTIONS AND REHABILITATION

3303 East Main, PO Box 1898 • Bismarck, ND 58502-1898
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January 30, 2001

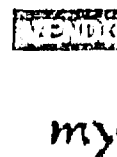
Testimony on HB No. 1364 House Judiciary Committee

House Bill No. 1364 deletes first time drug offenders from the mandatory-minimum sentencing for drug offenders who manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance. The Department of Corrections and Rehabilitation **supports** this amendment to NDCC Section 19-03.1-23.

Based upon information that is provided to the Prisons Division for offenders who are sentenced to the Department, it is difficult to ascertain who is a first time offender. Based upon the data available we estimate that approximately 51 offenders sentenced to the DOCR in Year 2000 were first time mandatory-minimum sentenced drug offenders. It is not possible to determine how many of these offenders would have been diverted from prison through adoption of HB No. 1364, however we believe it is safe to assume that at least a number of offenders, as first time offenders, would not have been sentenced to prison. The data shows that 9 first time mandatory-minimum sentenced offenders received a sentence of a year and a day. If these 9 offenders would have been diverted from prison through HB1364, the savings to the State in costs of incarceration averted would be \$270,000 per biennium.

The Department of Corrections and Rehabilitation supports the passage of HB NO.1364

Submitted by
Elaine Little, Director
Department of Corrections and Rehabilitation



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Newspaper stories

Page 3A

N.Y. joins campaign to reform drug laws Mandatory minimums are not working, many officials concede

By Kevin Johnson
USA TODAY

WASHINGTON -- When New York Gov. George Pataki announced plans to reduce prison terms for non-violent drug offenders last week, he joined an emerging national movement in acknowledging that harsh punishments have contributed to failed drug policy.

In New Mexico this month, a state advisory committee proposed radical changes to existing drug laws that would do away with criminal penalties for marijuana possession and eliminate mandatory-minimum prison sentences for drug-related offenses.

The Massachusetts Legislature is considering restructuring the state's drug laws to reduce steep mandatory-mini- mum punishments for first-time offenders.

And in Michigan, officials recently replaced mandatory life sentences with parole-eligible prison terms for first-time cocaine and heroin offenders.

"The impetus for drug law reform in New York and across the nation has never been stronger," says Edward Jurith, acting director of the White House Office of National Drug Control Policy. "We cannot simply arrest our way out of the problem of drug abuse and drug-related crime."

Long mandatory-minimum prison sentences for drug offenders were the rage in the 1970s and '80s, when officials began to confront serious drug-related crime in their states.

Nearly three decades later, those strict policies, some of which bought many first-time drug offenders up to 15 years in prison, have only driven up prison populations while having little influence on addiction, many officials now acknowledge.

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In New York, where existing drug laws are considered among the harshest and date to the early 1970s, the new strategy "balances the need to crack down on drug kingpins with common sense proposals to address overly severe provisions of the Rockefeller-era drug laws," Pataki says.

Instead of 15-years-to-life terms for first-time, non-violent offenders convicted of the most serious drug felonies, Pataki's plan calls for a minimum of slightly more than eight years to life.

"Pataki has joined the ranks of state officials troubled that these mandatory sentences have failed to accomplish what they were intended to accomplish," says Laura Sager, executive director of Families Against Mandatory Minimums. When the current drug laws were enacted in New York, the state prison population numbered more than 12,000. That number has increased to about 70,000 today, Pataki spokeswoman Caroline Quartararo says.

About 21,000 of those inmates are there for drug-related convictions. About 70% of them were involved in non-violent offenses.

"We want to keep the violent predators in prison longer and find treatment for the low-level, non-violent drug offenders," Quartararo says.

Frank Carney, executive director of the Massachusetts Sentencing Commission, says proposed changes pending before the state Legislature "represent a comprehensive re-structuring of the drug laws toward moderation."

The commission, as in New York, has proposed reducing mandatory sentences for non-violent first offenders from 15 years to a minimum of eight years.

"We found the sentences to be disproportionately long when compared to punishments for rape and armed robbery," Carney says.

"Now there is a growing awareness that in the drug war there needs to be a greater emphasis on treatment and perhaps less on taking prisoners."

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Rep. Wick

DEPARTMENT OF CORRECTIONS & REHABILITATION
SCHEDULE OF COMPARATIVE GENERAL FUND DATA
OVER FOUR BIENNIAL PERIODS

| <u>Division</u> | 1995-97 <u>Actuals</u> | 1997-99 <u>Actuals</u> | 1999-2001 <u>Budget</u> | 2001-2003 Executive <u>Recommendation</u> |
|------------------|---------------------------|---------------------------|----------------------------|--|
| Prisons Division | \$ 18,720,863 * | \$ 29,645,750 * | \$ 38,646,367 * | \$ 47,871,242 * |
| Field Services | 3,994,000 | 5,471,977 | 9,296,294 | 14,187,165 |
| General Fund | \$ 22,714,863 | \$ 35,117,727 | \$ 47,942,661 | \$ 62,058,407 |

* Excludes costs related to capital improvements.

Charles Placek ran a list of all offenders in DOCSTARS who were inmates on a drug charge. We began to enter this information in DOCSTARS in about 1992.

From this list, Wanda annotated each offense that was a minimum mandatory.

Every name on this list was then coded:

1 = Not minimum mandatory

2 = Minimum mandatory

3 = New drug incarceration after the drug minimum mandatory expired (this category was an over ride on both code #1 and code #2)

0 = Duplicate sentence period (separate drug charge) or follow on sentence (probably consecutive sentence)

There were 208 discreet minimum mandatory entries. 86 of these are still on active inmate status. That left 122 expired minimum mandatory drug sentences (this is the cohort group).

Of the 122 cohort group, 15 showed an incarceration for a drug offense after being released from inmate status on the minimum mandatory drug incarceration.

15 divided by 122 = 12.3%

DOCR Prisons Division Inmate Population Information

Population on December 31, 2000

NDSP 534, JRCC 218, MRCC 144 (There are 38 in Jails, 15 at the TRCU (Rev Center), 31 on CPP and 96 at Appleton)

Average Inmate Population, Arrivals, Releases and One Day Counts

| | CY 93 | CY 94 | CY 95 | CY 96 | CY 97 | CY 98 | CY 99 | CY 00 |
|--------------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| Average Daily Population | 567 | 571 | 619 | 707 | 819 | 902 | 931 | 1,016 |
| Annual New Arrivals | 452 | 482 | 473 | 581 | 572 | 778 | 702 | 747 |
| Annual Releases | 459 | 481 | 451 | 514 | 519 | 657 | 682 | 615 |
| Inmate Count on Dec 31 | 573 | 592 | 677 | 694 | 770 | 910 | 932 | 1,076 |

Inmate Admissions of Selected Offenses By Calendar Year

| | CY 93 | CY 94 | CY 95 | CY 96 | CY 97 | CY 98 | CY 99 | CY 00 |
|--------------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| Violent (Non-Sexual) | 74 | 90 | 81 | 124 | 109 | 153 | 117 | 149 |
| Sex Offenders | 41 | 43 | 30 | 37 | 43 | 55 | 50 | 69 |
| Drug & DUI Offenders | 41 | 58 | 74 | 95 | 142 | 232 | 231 | 252 |
| Property, Status & Other | 234 | 225 | 225 | 256 | 217 | 296 | 304 | 277 |

9% of Total Admissions

Average Sentence (In Months) By Calendar Year

| | CY 93 | CY 94 | CY 95 | CY 96 | CY 97 | CY 98 | CY 99 | CY 00 |
|------------------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| All Inmates | 42 | 49 | 42 | 43 | 46 | 38 | 40 | 42 |
| * 85% Truth-in-Sentencing ** | 47 | 41 | 34 | 60 | 87 | 40 | 46 | 79 |
| Violent Offenders (not TIS) | 58 | 56 | 59 | 59 | 56 | 59 | 57 | 47 |
| Sex Offenders | 71 | 85 | 99 | 87 | 91 | 93 | 94 | 95 |
| Drug Offenders | 40 | 42 | 49 | 40 | 48 | 50 | 65 | 60 |

* 85% TIS numbers not included in the Violent Offenders row; ** 85% TIS law passed in 1995 and these numbers reflect the inmates who would have been in this category had the law existed in 1993 and 1994

Inmate Count on December 31, 2000 and Average Sentence

| Offense | Inmate Count | Average Sentence |
|--------------------------------------|---|------------------|
| Violent Offenders (Excluding Sexual) | 296 | 119 Months |
| Sex Offenders | 165 | 135 Months |
| Drug Offenders | 243 | 60 Months |
| 184 (up from 146 last year) | Inmates Sentenced for Delivery, Manufacture or Intent | |
| 59 (up from 21 last year) | Inmates Sentenced for Simple Possession of Drugs or Paraphernalia | |

Number of Admissions By Sentence Length (Each Calendar Year)

| | CY 94 | CY 95 | CY 96 | CY 97 | CY 98 | CY 99 | CY 00 |
|-------------------------------------|-------|-------|-------|-------|-------|-------|-------|
| Less Than One Year | 49 | 50 | 54 | 43 | 68 | 56 | 50 |
| One Year to Less Than Five Years | 299 | 282 | 356 | 329 | 492 | 477 | 462 |
| Five Years to Less Than Ten years | 115 | 120 | 138 | 156 | 160 | 132 | 210 |
| Ten Years to Less Than Twenty Years | 30 | 29 | 20 | 31 | 31 | 30 | 19 |
| Twenty Years or More | 16 | 9 | 11 | 8 | 8 | 7 | 6 |

Minimum mandatory sentenced inmates break out as follows (on December 31, 2000):

| Offense | Inmate Count | Average Sentence |
|------------------------------|--------------|--|
| DUI | 43 | 29 Months |
| Drug Offenses | 91 | 64 Months |
| Aggravated Assault (2 Year) | 9 | 48 Months |
| Aggravated Assault (4 Year) | 1 | 109 Months |
| Robbery | 14 | 75 Months |
| Terrorizing | 3 | 26 Months |
| Murder - Life With No Parole | 6 | NOTE: 15% of the inmate population on 12-31-2000 had a minimum mandatory sentence. |
| Total | 167 | |

85% (Truth-in-Sentence) inmates break out as follows (on December 31, 2000):

| | Inmate Count | Average Sentence |
|--|--------------|------------------|
| | 124 | 85 Months |

DOCR Prisons Inmate Population
Drug and DUI Offender Information

| | 1998 | 1999 | 2000 |
|---|------|------|------|
| Drug and DUI offender count on Dec 31 | 187 | 206 | 243 |
| Average drug offender sentence on Dec 31 (in months) | 55 | 55 | 60 |
| Minimum mandatory DUI count on Dec 31 | 32 | 30 | 43 |
| Minimum mandatory DUI average sentence on Dec 31 | 21 | 23 | 29 |
| Minimum mandatory drug (not DUI) count on Dec 31 | 67 | 74 | 91 |
| Minimum mandatory drug (not DUI) average sentence on Dec 31 | 63 | 65 | 64 |

DOCCorrections Division
Drug Offenders With Ranges of Sentences
(One Day Count on December 31, 2000)

| Number of Cases | Portion of Sentence Not Suspended (in months) | | | Crime |
|-----------------|---|------------------|------------------|---|
| | Lowest Sentence | Average Sentence | Longest Sentence | |
| 38 | 5 | 31 | 60 | DUI |
| 5 | 6 | 11 | 12 | Actual Physical Control |
| 9 | 12 | 15 | 24 | Possession of Drug Paraphernalia |
| 55 | 6 | 33 | 120 | Possession of a Controlled Substance |
| 1 | 144 | 144 | 144 | Obtaining Controlled Substance by Deception |
| 3 | 12 | 14 | 18 | Fraudulently Obtaining Prescription Drug |
| 1 | 36 | 36 | 36 | Possession of Methamphetamine |
| 6 | 13 | 67 | 120 | Delivery of an Imitation Controlled Substance |
| 7 | 24 | 55 | 120 | Manufacture of a Controlled Substance |
| 16 | 18 | 51 | 120 | Conspiracy to Deliver a Controlled Substance |
| 100 | 4 | 63 | 240 | Delivery of a Controlled Substance |
| 42 | 4 | 73 | 240 | Possess Controlled Substance With Intent To Deliver |

**DO Corrections Division
Drug Cases By County**

(One Day Count on December 31 of 1998, 1999 and 2000)

| County | Number of Minimum Mandatory Cases, December 31, 2000 | Number of Cases on December 31, 2000 | Portion Not Suspended (average in months) | Number of Cases on December 31, 1999 | Portion Not Suspended (average in months) | Number of Cases on December 31, 1998 | Portion Not Suspended (average in months) |
|-------------|--|--------------------------------------|---|--------------------------------------|---|--------------------------------------|---|
| Adams | 0 | 0 | 0 | 0 | 0 | 1 | 12 |
| Barnes | 2 | 3 | 69 | 4 | 54 | 2 | 48 |
| Benson | 1 | 1 | 36 | 0 | 0 | 0 | 0 |
| Bottineau | 0 | 1 | 48 | 0 | 0 | 0 | 0 |
| Bowman | 0 | 0 | 0 | 1 | 12 | 0 | 0 |
| Burleigh | 29 | 59 | 50 | 37 | 38 | 31 | 59 |
| Cass | 41 | 77 | 54 | 59 | 43 | 71 | 48 |
| Eddy | 0 | 1 | 24 | 0 | 0 | 0 | 0 |
| Foster | 1 | 1 | 5 | 0 | 0 | 0 | 0 |
| Grand Forks | 14 | 25 | 62 | 16 | 30 | 23 | 46 |
| Kidder | 1 | 1 | 6 | 1 | 60 | 0 | 0 |
| McHenry | 0 | 1 | 60 | 1 | 12 | 0 | 0 |
| McIntosh | 1 | 1 | 6 | 1 | 12 | 1 | 1 |
| McKenzie | 0 | 2 | 60 | 0 | 0 | 2 | 66 |
| Medora | 0 | 4 | 52 | 1 | 9 | 0 | 0 |
| Mercer | 0 | 1 | 12 | 0 | 0 | 0 | 0 |
| Morton | 13 | 29 | 48 | 14 | 44 | 22 | 41 |
| Pembina | 3 | 5 | 70 | 1 | 48 | 1 | 48 |
| Pierce | 0 | 0 | 0 | 0 | 0 | 1 | 12 |
| Ransom | 2 | 2 | 96 | 3 | 64 | 2 | 96 |
| Richland | 1 | 5 | 46 | 1 | 48 | 4 | 60 |
| Roberts | 1 | 2 | 18 | 2 | 30 | 2 | 24 |
| Sargent | 1 | 6 | 35 | 2 | 36 | 1 | 48 |
| Saukeman | 4 | 8 | 28 | 4 | 16 | 7 | 41 |
| Trail | 0 | 2 | 15 | 0 | 0 | 0 | 0 |
| Wash | 0 | 1 | 84 | 6 | 23 | 4 | 36 |
| Ward | 14 | 34 | 54 | 16 | 50 | 19 | 47 |
| Williams | 3 | 10 | 38 | 3 | 27 | 8 | 47 |
| Total | 132 | 282 | | 173 | | 202 | |

DOCL... Division
Number Of Cases By Specific Drug
(One Day Counts On December 31 of 1998, 1999 and 2000)

| Drug | Number of Cases on December 31, 1998 | Number of Cases on December 31, 1999 | Number of Cases on December 31, 2000 |
|---------------------------------------|---|---|---|
| Alcohol (DUI or APC) | 32 | 26 | 43 |
| Amphetamines | 5 | 4 | 2 |
| Cocaine | 43 | 32 | 37 |
| Codine | 1 | 0 | 0 |
| Dilaudid | 0 | 0 | 1 |
| Diazepam | 1 | 0 | 0 |
| Demoral | 0 | 1 | 0 |
| Drug Paraphernalia (drug unspecified) | | | 9 |
| Ecstasy | 0 | 0 | 1 |
| Fortanly Liquid | 0 | 1 | 0 |
| Heroin | 5 | 1 | 5 |
| Initiation Controlled Substance | 2 | 0 | 2 |
| Lorax | 0 | 0 | 1 |
| LSD | 2 | 2 | 3 |
| Marijuana | 91 | 51 | 67 |
| Methamphetamine | 53 | 52 | 107 |
| Mushrooms | 1 | 0 | 1 |
| Norco | 0 | 0 | 1 |
| Perocet | 0 | 1 | 1 |
| Pethidine | 0 | 1 | 1 |
| Prescription Drug | 1 | 0 | 0 |
| Prozac | 0 | 0 | 1 |
| Ritalin | 1 | 0 | 0 |
| Seroids | 1 | 0 | 1 |

NOTE: Some cases involve combinations of drugs.



DEPARTMENT OF CORRECTIONS AND REHABILITATION

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March 5, 2001

Testimony on HB No. 1364
Senate Judiciary Committee
Senator Traynor, Chairman

House Bill No. 1364 deletes first time drug offenders from the mandatory-minimum sentencing for drug offenders who manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance. The Department of Corrections and Rehabilitation supports this amendment to NDCC Section 19-03.1-23.

Based upon information that is provided to the Prisons Division for offenders who are sentenced to the Department, it is difficult to ascertain who is a first time offender. Based upon the data available we estimate that approximately 51 offenders sentenced to the DOCR in Year 2000 were first time mandatory-minimum sentenced drug offenders. It is not possible to determine how many of these offenders would have been diverted from prison through adoption of HB No. 1364, however we believe it is safe to assume that at least a number of offenders, as first time offenders, would not have been sentenced to prison. The data shows that 9 first time mandatory-minimum sentenced offenders received a sentence of a year and a day. If 9 offenders would be diverted from prison each year through HB1364, the savings to the State in costs of incarceration averted would be \$270,000 per biennium.

The Department of Corrections and Rehabilitation supports the passage of HB NO.1364

Submitted by
Elaine Little, Director
Department of Corrections and Rehabilitation