

Learning from Our Past: Mandatory Minimum Sentences Do Not Deter Crime **Oppose SB 5**

Dear Chairman Birdwell and Members of the Committee,

Thank you for the opportunity to share testimony in opposition to SB 5. The Texas Center for Justice and Equity (TCJE) is a nonpartisan, nonprofit organization focused on ending mass incarceration, shifting funding towards community supports, and reducing racial inequities in the criminal punishment system. We are testifying in opposition to SB 5 because of their potential for extreme expansion of mass incarceration and the burden on border communities and youth in Texas.

While we acknowledge the bill's intent to deter human smuggling in Texas and to meet gaps created by our failed federal immigration system, this extreme expansion of criminalization misses the mark and, furthermore, will result in a dramatic expansion of incarceration, particularly for young Texans who are targeted to transport migrants seeking safety and refuge in the United States.¹

Categorically, TCJE opposes mandatory minimum sentences due to their cruelty, expense, and ineffective nature. According to Families Against Mandatory Minimums (FAMM): Deterrence assumes that people will:

- 1) research the criminal code;
- 2) find the relevant mandatory penalty; and
- 3) be discouraged from criminal activity because of the penalty.²

But in reality, “people are not aware of mandatory penalties when they commit a crime. Therefore, increasing the penalty or severity of a punishment is ineffective at deterring people from engaging in criminal activity.”³

Oppose SB 5 by Senator Flores

- **Mandatory minimum sentences do not deter crime.** While intended to create a consistent deterrence for crime, mandatory minimums only remove discretion from judges and place it with prosecutors, all while individuals remain unaware of increased penalties.
- **Locking people up and throwing away the key is inhumane, costly, and ineffective.** Mandatory minimums are a primary driver of mass incarceration, which already costs Texas taxpayers billions of dollars each year, with no long-term public safety benefit.⁴

In the early 2000s, Texas took strides to reduce its overreliance on prison, in part through sentencing reforms that reduced the use of mandatory minimums. It would be a mistake to reverse this progress and put thousands of Texans at risk of extreme prison sentences.

Citations on reverse.

Citations

¹ Quinn Owen, “Images reveal social media recruitment tactics of suspected human smugglers,” *ABC News*, December 2022, <https://abcnews.go.com/US/images-reveal-social-media-recruitment-tactics-suspected-human/story?id=95672672>.

² Famm, *The Case Against Mandatory Minimums*, <https://famm.org/wp-content/uploads/The-Case-against-Mandatory-Minimum-Sentences.pdf>.

³ Id. *See also*: National Institute of Justice, *Five Things About Deterrence*, U.S. Department of Justice – Office of Justice Programs, May 2016, <https://www.ncjrs.gov/pdffiles1/nij/247350.pdf>.

⁴ Vera Institute of Justice, *The Prison Paradox: More Incarceration Will Not Make Us Safer*, July 2017. https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf.