



April 17, 2017

Vote “Yes” on Senate Bill 1436

Dear Senator,

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, Florida Council of Churches, and LatinoJustice PRLDEF, we are writing to express our support for Senate Bill 1436 (S.B. 1436). S.B. 1436 is an important step toward reducing mass incarceration in Florida, cutting the exorbitant cost of the corrections system for Floridian taxpayers, and returning Floridians to their families, careers, and communities.

S.B. 1436 makes several reforms to drug sentencing policy that are essential for reducing the human and economic cost of mass incarceration in Florida, including:

- Reducing mandatory minimum sentences for certain drug trafficking offenses.
- Allowing individuals to request that the sentencing court depart from mandatory minimums for trafficking in small amounts of hydrocodone and oxycodone.¹
- Increasing the felony ranges for certain drug trafficking offenses.²
- Enabling state attorneys to request that the court reduce or suspend the sentence of an individual convicted of a level 7 and 8 offense, regardless of whether the individual assisted in an investigation.³

According to the Criminal Justice Impact Conference, S.B. 1436 will have a “negative indeterminate” impact on prison beds, meaning the bill is expected to reduce incarceration and prison overcrowding in the state of Florida.⁴ Currently, about 100,000 people are held in Florida’s prisons, enough to fill more than half of Tallahassee.⁵ A disproportionate number of those currently detained in Florida are African American. In fact, African Americans comprise almost half (47.7 percent) of Florida’s prison population, though African Americans represent only about 16 percent of the total population in Florida.⁶ The state incarcerates African Americans at a rate 15 percent higher than the average across the country and at a rate of 1,621 per 100,000, compared to 448 per 100,000 for whites.⁷ As a result, one in 22 men in Florida who are African American and over 18 years old are currently detained in Florida’s prisons.⁸

In addition, thousands of people are currently detained in Florida’s prisons for first time, nonviolent drug offenses. Between 2015 and 2016 alone, Florida admitted nearly seven thousand new inmates for drug offenses.⁹ A good proportion of these inmates were not drug kingpins or career criminals. In fact, almost half of them were being admitted *for the very first time*¹⁰ and the majority were admitted with one or less prior commitments to prison.¹¹ In total, more than 14,600 people currently sit in Florida’s prisons because of a nonviolent drug offense.¹² Many of these individuals do not belong in prison, but rather belong in substance abuse programs and home with their families, where they can develop their careers, advance their education, and contribute to the economy.

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Incarcerating this many people costs taxpayers in Florida about \$2 billion dollars *each year*.¹³ Each day, the state of Florida spends \$53.49 to house an inmate, even though it would cost only \$5.05 per day to supervise that same individual on community supervision (without electronic monitoring).¹⁴

Florida's lawmakers recognized that the system as it now stands is unacceptably costly, unjustly discriminatory, and unnecessarily harsh, and responded in part with S.B. 1436. The Florida legislature has already begun dismantling mandatory minimums. Just last year, Governor Rick Scott signed into law Senate Bill 228 repealing one of Florida's major mandatory minimum laws, the 10-20-Life law.¹⁵ Despite this progress, there are still 118 mandatory minimum sentences on the books in Florida,¹⁶ including those imposing mandatory life imprisonment for some nonviolent drug offenses.¹⁷ Mandatory minimums undermine our nation's commitment to justice and fairness by preventing judges from taking into account the individual's background and the circumstances of his/her offenses in the sentencing determination. Instead, these laws require judges to administer prison terms of a particular length for people convicted of certain crimes, regardless of circumstance. As a result, mandatory minimum sentencing laws have caused prison populations to balloon across the United States, leading to overcrowding and exorbitant costs to taxpayers. S.B. 1436 represents yet another step in the right direction, by enabling the court to take into account situational factors when determining the appropriate punishment for drug trafficking offenses. S.B. 1436 will help ensure that people are returned to their families, careers, and communities as soon as is safe and practical. This will not only provide personal benefits to those affected by the change in law, but will also provide substantial economic benefits to the community at large.

In the future, we hope to work with lawmakers to further improve drug sentencing policy in Florida, including eliminating unnecessary mandatory minimums, and reforming the laws regarding life without parole, habitual offenders,¹⁸ as well as the requirement that individuals serve 85 percent of their sentence regardless of circumstance.¹⁹ In the meantime, S.B. 1436 represents an important step toward reducing mass incarceration in Florida, saving taxpayer money, and enabling individuals to reenter their communities as successful citizens. For the reasons stated above, we strongly urge you to support S.B. 1436 and vote it favorably out of the Senate Criminal Justice Committee today.

Thank you for your consideration of this critical legislation. If you have any questions, please feel free to contact Sakira Cook at cook@civilrights.org or (202) 263-2894.

Sincerely,

The Leadership Conference on Civil and Human Rights
LatinoJustice PRLDEF
Florida Council of Churches

¹ See S.B. 1436 (as introduced). *Florida State Legislature 2016-2018*. Pgs. 7 and 8.

² See, e.g. S.B. 1436 (as introduced). *Florida State Legislature 2016-2018*. Pgs. 28-29, 41, 50.

³ See S.B. 1436 (as introduced). *Florida State Legislature 2016-2018*. Pg. 12.

⁴ See <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/HB731.pdf>.

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- ⁵ "2015 ACS 5-Year Population Estimate: Tallahassee city, Florida." *United States Census Bureau*. https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml. Compare to Nellis, Ashley. "The Color of Justice: Racial and Ethnic Disparity in State Prisons." *The Sentencing Project*. June 14, 2016. Table A. <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.
- ⁶ See Nellis, Ashley. "The Color of Justice: Racial and Ethnic Disparity in State Prisons." *The Sentencing Project*. June 14, 2016. Table A. <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>. See also "Florida Estimates of Population 2016." *University of Florida College of Liberal Arts and Sciences Bureau of Economic and Business Research*. Apr. 1, 2016. Pg. 45. <http://edr.state.fl.us/Content/population-demographics/data/PopulationEstimates2016.pdf>.
- ⁷ See Nellis, Ashley. "The Color of Justice: Racial and Ethnic Disparity in State Prisons." *The Sentencing Project*. June 14, 2016. Table 1. <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.
- ⁸ See Nellis, Ashley. "The Color of Justice: Racial and Ethnic Disparity in State Prisons." *The Sentencing Project*. June 14, 2016. Table 2. <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.
- ⁹ See "2015-2016 Agency Statistics: Inmate Admissions: Type of Offense." *Florida Department of Corrections*. http://www.dc.state.fl.us/pub/annual/1516/stats/ia_genadm.html.
- ¹⁰ See "2015-2016 Agency Statistics: Inmate Admissions: Drug Offender Admissions." *Florida Department of Corrections*. http://www.dc.state.fl.us/pub/annual/1516/stats/ia_drug.html.
- ¹¹ *Id.*
- ¹² See "2015-2016 Agency Statistics: Inmate Population: Type of Offense." *Florida Department of Corrections*. http://www.dc.state.fl.us/pub/annual/1516/stats/ip_general.html.
- ¹³ See Newburn, Greg. "Poor Results, Good Intentions: The Case for Reform of Florida's Mandatory Minimum Statutes." *Families Against Mandatory Minimums*. Mar. 13, 2017. Pg. 2. <http://famm.org/poor-results-good-intentions-the-case-for-reform-of-floridas-mandatory-minimum-statutes/>.
- ¹⁴ See "Quick Facts About the Florida Department of Corrections." *Florida Department of Corrections*. Revised January 2017. Accessed Mar. 30, 2017. <http://www.dc.state.fl.us/oth/Quickfacts.html>.
- ¹⁵ See Elliott, Loren. "Good riddance to bad law, 10-20-Life." *The Miami Herald*. Feb. 25, 2016. <http://www.miamiherald.com/opinion/editorials/article62557122.html>.
- ¹⁶ See Klas, Mary Ellen. "In major Tallahassee reversal, mandatory sentences called a waste of taxpayer money." *The Miami Herald*. Feb. 21, 2017. <http://www.miamiherald.com/news/politics-government/state-politics/article134127879.html>.
- ¹⁷ See Fla. Stat. Ann. § 893.135.
- ¹⁸ See Fla. Stat. Ann. § 775.084(4)(a).
- ¹⁹ See "2015-2016 Agency Statistics: Inmate Population: 91.2% of inmates in prison on June 30, 2016 were serving sentences under the 85% law." *Florida Department of Corrections*. http://www.dc.state.fl.us/pub/annual/1516/stats/ip_percent_served.html.