



National District Attorneys Association

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April 26, 2016

The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Harry Reid
Democratic Leader
United States Senate
522 Hart Senate Office Building
Washington, DC 20510

Dear Majority Leader McConnell and Democratic Leader Reid,

On behalf of the National District Attorneys Association (NDAA), the largest prosecutor organization representing 2500 elected and appointed District Attorneys across the United States as well as 30,000 assistant district attorneys, I write in support of S. 2123, the Sentencing Reform and Corrections Act of 2015. As a result of months of changes and good faith negotiations, our organization feels the latest version of the bill strikes the appropriate balance between targeting the highest level drug traffickers plaguing our communities, while simultaneously decreasing crime rates and addressing the burgeoning prison population.

America's federal, state, local and tribal prosecutors have as their primary responsibility the administration of justice. Everyday, prosecutors have to make tough judgment calls. Sometimes, that judgment call involves locking up individuals for a long period of time for a heinous crime that damaged a community. More often, we work hard to provide second chances and concerted efforts are made to rehabilitate an individual with the goal of reducing the chance that he or she will reoffend back into the system.

As we have seen from the cost curve published by the National Academy of Sciences, the current prison population is simply unsustainable and continues to have a greater and greater impact on broader funding and programming at the Department of Justice. Budget aside, communities across this country have shifted to embrace rehabilitation and the opinion that certain individuals in our federal prison system are serving sentences that are too long compared to the crime they committed. This legislation aims to strike the appropriate balance of time served and the relevant crime by modifying the three strikes rule for drug felonies, with a third strike now carrying a 25-year penalty as opposed to life, and second strike carrying a 15-year sentence instead of 20 years. Appropriately so, the bill expands the three strikes rule to apply to serious violent felonies, ensuring that we use prison for those we are afraid of, not those whom we are mad at based on their behavior.

One previous concern our members highlighted was the retroactive nature of many provisions in the original bill. The new version takes into account that concern by limiting the retroactivity where applicable if an individual's record contains any serious violent felony. We feel this filters out the truly dangerous individuals who should stay out of the community, while allowing lower level offenders a chance for redemption.

Our members also realize that as we see the same offenders reenter the criminal justice system time and time again, we must be creative and come up with innovative programs to reduce recidivism, including job training skills, addiction counseling and other productive activities. According to a report primarily authored by the National Center for State Courts, "properly designed and operated recidivism-reduction programs can significantly reduce offender

recidivism. Such programs are more effective, and more cost-effective, than incarceration in reducing crime rates.”

As part of the broader legislation, the Corrections Act requires the development of a risk assessment tool that will categorize inmates based on their risk of recidivism and subsequently determine which types of programming are most tailored to that individual’s needs and risks. This is an important step in targeting at risk populations and providing the necessary resources to rehabilitate those individuals with the eventual goal of returning to our communities as productive citizens. At the same time, appropriate parameters are set for who is eligible to earn good time credit for completion of the recidivism reduction programming in order to keep the most dangerous and high-risk individuals from being eligible for early release to community supervision and off the streets.

We are especially appreciative of the provision in the legislation requiring an annual report by the Attorney General outlining how savings accrued from modifications to federal sentencing will be reinvested into efforts by federal, state and local prosecutors and law enforcement to go after drug traffickers and gangs, as well as provide the necessary training and tools needed to carry out investigations, keep officers safe, and ensure successful programming and initiatives are duplicated across communities in the form of best practices. Unfortunately, as the Bureau of Prison’s (BOP) budget has continued to rise, funding for state and local law enforcement grants has been slashed to the bone negatively impacting innovative work in the field including diversion programs, updating of information sharing systems, and hot spot policing. This language is an acknowledgement that vital funding streams to prosecutors and law enforcement must be restored to protect the communities we serve.

The members of NDAA are acutely aware that our federal partners need to have the ability to allocate resources to state prosecutors to help combat human trafficking, domestic violence, the scourge of prescription drug addiction, and so many other ills that plague our communities. Absent meaningful sentencing reform, where the truly dangerous are locked up for an appropriate period of time and those with addiction or mental health issues have the chance for treatment and rehabilitation, those needed resources will not exist.

We applaud the bipartisan leadership of the Senators and staff who have spent considerable time working on this compromise legislation. Their tireless efforts have included open and transparent communication with our organization and members, which has not gone unnoticed. We look forward to working with both of you and other Senators and staff in the weeks ahead to move this bipartisan legislation forward.

Respectfully,

A handwritten signature in black ink that reads "William Fitzpatrick". The signature is written in a cursive style with a large, stylized initial "W".

William Fitzpatrick
President
National District Attorneys Association

cc: The Honorable Chuck Grassley
cc: The Honorable Patrick Leahy