

# Mandatory Minimums

*Drug sentencing gets an overhaul*

Last December, during the final days of the 91st Legislative Session, lawmakers provided a great service to Michigan citizens when they voted to overturn the state's harsh mandatory minimum sentencing laws. Thanks to that repeal, approximately 1,250 of those convicted and imprisoned under the state's mandatory sentencing law will now be eligible for parole.

As Vice Chair of the House Criminal Justice Committee and an attorney, I knew that Michigan's 1978 drug sentencing law that forced judges to impose long, mandatory sentences for first-time, nonviolent drug offenders was unjust and needed to be addressed. While the premise of the law—to crack down on drug kingpins—made sense, it was mostly

the low-level offenders that were prosecuted and imprisoned. The law mandated life without parole for offenders who possessed at least 650 grams of heroin or cocaine with intent to deliver. In other words, prison sentences were based solely on the weight of the drug involved. Many of those convicted under the law received longer prison terms than violent career criminals. Too many low-level, nonviolent drug offenders who were heavily addicted and who made easy targets for police sting operations ended up imprisoned for 20-plus years, while the major drug dealers remained untouched. This “one size fits all” approach to drug convictions was unjust and needed to be changed.

During my first term in the Michigan House, I introduced legislation that I believed would strike the right balance between tough penalties for the worst drug offenders and allowing judges to use discretion and consider sentencing on a case-by-case basis. The legislation would allow judges to tailor sentences to fit the crime by considering such factors as prior offenses or whether a gun was used in the crime. The legislation also addressed previous sentences by permitting a parole board to consider parole for some prisoners earlier than what the original law allowed. This would not guarantee release, but would give the parole board discretion to give rehabilitated offenders a second chance.

As the legislation moved through the committee process and was debated on the House and Senate floors, I was particularly pleased by the show of support it received from both my Democratic and Republican colleagues. I was also pleased to work with a number of organizations who wanted to end this injustice in Michigan's legal system. Those organizations, including the Prosecut-

ing Attorneys Association of Michigan, the Families Against Mandatory Minimums, the Michigan Association of Drug Court Professionals, the Michigan Catholic Conference, the Detroit Branch of the NAACP, police officers, and judges were all instrumental in overturning Michigan's mandatory minimum law.

Prosecutors and judges now have the power to use discretion when charging and sentencing drug offenders. They will be able to depart from the minimum and maximum sentencing guidelines for substantial and compelling reasons. They will also be able to eliminate mandatory lifetime probation for low-level drug offenders and restore five-year probation, as required for other serious crimes. Now, law enforcement will be able to focus more on prevention and treatment instead of locking someone up and throwing away the key. ♦



*Bill McConico is serving his second term in the Michigan House of Representatives, representing the 5th District. In the 2000 session, Representative McConico was the Vice Chair of the Criminal Justice Committee, where he sponsored three significant pieces of legislation to correct the inequities of the Mandatory Minimum Sentencing Laws in Michigan. He also served on the Appropriations Subcommittee for Corrections. Currently, Representative McConico is the Vice Chair of the Energy and Technology Committee and a member of the Commerce Committee. He is a graduate of Case Western Reserve Law School and is a member of the State Bar.*

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The State Bar has an ongoing public policy position disfavoring mandatory sentencing.