



LAW ENFORCEMENT LEADERS

To Reduce Crime & Incarceration

April 30, 2019

Hon. Philip E. Berger
16 West Jones Street, Rm. 2007
Raleigh, NC 27601

Hon. Daniel Forest
20401 Mail Service Center
Raleigh, NC 27699

Hon. Harry Brown
300 N. Salisbury Street, Rm. 300-B
Raleigh, NC 27603

Hon. Daniel Blue
16 West Jones Street, Rm. 1129
Raleigh, NC 27601

Re: North Carolina First Step Act (S.B. 404)

Dear Senate President, President *pro tempore*, and Leaders,

We write to you as members of Law Enforcement Leaders to Reduce Crime and Incarceration—a coalition of over 200 former and current U.S. Attorneys, district attorneys, state attorneys general, police chiefs, and sheriffs—in support of the North Carolina First Step Act. Each signatory to this letter has served the public in a jurisdiction that has a sentencing safety valve in place. Drawing on this collective experience, we believe safety valves (laws that gives judges limited discretion to depart from mandatory minimums) are an effective tool to reduce incarceration and promote public safety.

For decades, unchecked mandatory minimums have swelled the national prison population with little return on public safety. As you are well aware, North Carolina is no exception, with \$1.55 billion spent on corrections in 2016 and a prison population that has more than doubled since 1980.¹ The North Carolina First Step Act would give judges discretion to depart from certain drug mandatory minimums if doing so would be consistent with public safety.²

Drug mandatory minimums often yield the appropriate sentence for the crime. But their rigidity also produces disproportionate sentences that keep people behind bars for far too long. Overly long sentences waste taxpayer dollars, erode trust in our justice systems, and often make us *less* safe. In fact, studies show that individuals who are low risk—just the individuals that might qualify for a safety valve reduction—are more likely to recidivate if incarcerated for longer periods of time.³

Law enforcement and legislators across the country are starting to realize that we cannot incarcerate our way out of the opioid epidemic. We know today that long mandatory minimums do little to reduce drug use.⁴ And studies show that dollar for dollar, treatment is more effective at curing addiction than incarceration.⁵ A safety valve would give judges discretion to choose treatment, probation, or a shorter sentence over a mandatory minimum when appropriate.

Safety valves have a proven success record. The federal safety valve went into effect in 1994 and has been applied to 80,000 nonviolent drug offenders since.⁶ Many of us have served as federal

prosecutors and seen firsthand the benefits of this law. Congress recognized as much with the overwhelming bipartisan passage of the federal FIRST STEP Act.⁷ The bill reduced mandatory minimums for certain drug crimes and also greatly expanded the existing federal safety valve.⁸

States across the country are also using safety valves without compromising public safety, including Georgia, Virginia, Maryland, and Louisiana to name only a few.⁹ North Carolina can call on the experience of these states as it implements its own law.

As law enforcement, we understand your duty to protect the health and safety of your constituents. This is especially true in the face of rising opioid deaths, a crisis that is in all our backyards. With hundreds of years of collective experience protecting public safety, we believe the North Carolina First Step Act would do just that, and we urge you to pass it into law.

Sincerely,

Ronal Serpas

Executive Director
Law Enforcement Leaders to Reduce Crime and Incarceration
Former Police Superintendent
New Orleans, Louisiana

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Former States Attorney
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Barry Grissom

Former U.S. Attorney
District of Kansas

Greg Hamilton

Former Sheriff
Travis County, Texas

Hal Hardin

Former U.S. Attorney
Middle District of Tennessee
Former Judge
Davidson County, Second Circuit Court

Timothy Heaphy

Former U.S. Attorney
Western District of Virginia

John Hummel

District Attorney
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Justin Kollar

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Cameron McLay

Former Police Chief
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Charles McClelland

Former Police Chief
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Matt Orwig

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Former U.S. Attorney
District of Nevada

Rick Raemisch

Former Executive Director
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Eastern District of Michigan

Susan Segal

City Attorney
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J. Scott Thomson

Police Chief
Camden County, New Jersey

Joyce Vance

Former U.S. Attorney
Northern District of Alabama

¹ Compare NORTH CAROLINA DEP'T OF CORRECTIONS RESEARCH AND PLANNING, 1980 DAILY UNIT POPULATION AVERAGES, <https://randp.doc.state.nc.us/pubdocs/0002117.PDF> (last visited Apr. 22, 2019) with Eric A. Hooks et al., North Carolina Dep't of Public Safety, Fiscal Year 2016-2017 Annual Statistical Report (2017), <https://randp.doc.state.nc.us/pubdocs/0007081.PDF> (showing an increase in daily average prison population of 15,145 in 1980 to 37,903 in FY 2016-2017).

² S.B. 404, 2019 Leg., Reg. Sess. (N.C., 2019), <https://webservices.ncleg.net/ViewBillDocument/2019/2095/0/DRS35180-ML-89A>.

³ See PAUL GENDREAU ET AL., THE EFFECTS OF PRISON SENTENCES ON RECIDIVISM, PUBLIC WORKS AND GOVERNMENT SERVICES CANADA (1999), <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ffcts-prsn-sntncs-rcdvsm/ffcts-prsn-sntncs-rcdvsm-eng.pdf> (reviewing fifty studies, primarily in the United States, involving 336,052 offenders). See also, Heaton et. al, *The Downstream Consequences of Misdemeanor Pretrial Detention*, 69 STAN. L. REV. 711 (2017), <https://review.law.stanford.edu/wp-content/uploads/sites/3/2017/02/69-Stan-L-Rev-711.pdf>; Arpit

Gupta et. al, *The Heavy Cost of High Bail*, 45 J. LEGAL STUD. 471 (2016),
<http://www.columbia.edu/~cjh2182/GuptaHansmanFrenchman.pdf>.

⁴ PEW CHARITABLE TRUSTS, MORE IMPRISONMENT DOES NOT REDUCE STATE DRUG PROBLEMS (2018),
https://www.pewtrusts.org/-/media/assets/2018/03/pspp_more_imprisonment_does_not_reduce_state_drug_problems.pdf.

⁵ JONATHAN CAULKINS ET AL., RAND CORPORATION, MANDATORY MINIMUM DRUG SENTENCES: THROWING AWAY THE KEY OR THE TAXPAYERS' MONEY? (1997),
https://www.rand.org/pubs/monograph_reports/MR827.html; DOUG MCVAY ET AL. JUSTICE POLICY INST., TREATMENT OR INCARCERATION? (2004), http://www.justicepolicy.org/uploads/justicepolicy/documents/04-01_rep_mdtreatmentorincarceration_ac-dp.pdf.

⁶ FAMILIES AGAINST MANDATORY MINIMUMS, EXCEPTION #1 TO MANDATORY MINIMUM SENTENCES (2013),
<https://famm.org/wp-content/uploads/FS-Fed-Safety-Valve-for-Drug-Offenses-3553f-NW.pdf>.

⁷ See Roll Call Vote 115th Congress – 2nd Session, S. 756, (Dec. 18, 2018),
https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=115&session=2&vote=00271 (showing 87 YEAS and 12 NAYS); Final Vote Results for Roll Call 448, S. 756 (Dec. 20, 2018),
<http://clerk.house.gov/evs/2018/roll448.xml> (showing 358 YEAS and 36 NAYS).

⁸ First Step Act of 2018, Pub. L. No. 115-391, Sec. 402 (2018).

⁹ See Families Against Mandatory Minimums, How Sentencing Safety Valves Can Help States Protect Public Safety and Save Money 13-18 (2013), <https://outlook.office.com/owa/?realm=lawenforcementleaders.org&exsvurl=1&ilcc=1033&modurl=0&path=/attachmentlightbox>.