



State of Rhode Island and Providence Plantations

State House
Providence, Rhode Island 02903-1196
401-222-2080

Donald L. Carcieri
Governor

July 3, 2007

TO THE HONORABLE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

In accordance with the provisions of Section 14, Article IX of the Constitution of the State of Rhode Island and Section 43-1-4 of the Rhode Island General Laws, I transmit, with my disapproval, 2007-H 5127, "An Act Relating to Food and Drugs – Uniform Controlled Substances Act."

This act would eliminate mandatory minimum sentences and lower the maximum allowable prison term for persons convicted of manufacturing, selling or possessing with the intent to manufacture or distribute certain controlled substances.

Currently, such offenses are punishable by a minimum of ten (10) years and, for the most serious cases, a sentence of life in prison. This bill would change the maximum sentence to twenty (20) years in most instances, and up to thirty (30) years for those convicted of possessing larger quantities of drugs.

Proponents of eliminating mandatory minimum sentences argue that mandatory minimum sentences constrain the ability of the judiciary to mete out "appropriate" punishments, resulting in an injustice by imposing a sentence on the guilty party that far outweighs the crime for which the person was convicted.

To determine whether or not a change in the law is necessary one must first understand what current law permits. While it is true that there exist certain mandatory minimum sentences for drug related crimes, it's equally true that those minimums exist more in theory than reality. This legislation does more to change emphasis than it does to shift policy or undue the shackles of mandatory sentences that allegedly impede the execution of justice.

Though current law prescribes a minimum ten (10) year sentence for certain offenses, it also gives the judiciary the unfettered authority to deviate from that so-called mandatory minimum. A judge may impose a sentence less than the minimum if he or she finds that "substantial and compelling circumstances exist which justify imposition of an alternative sentence." The list of factors the judge can consider are quite comprehensive and include the character and background of the guilty party, their cooperation (or lack thereof) with law enforcement, the nature and circumstances of the offense, and the quality of evidence presented at trial.

Current law avails to the third branch of government any and all means to render the punishment they deem most appropriate in light of the circumstances of a particular case. In fact, this legislation might create an unforeseen, but nonetheless perverse incentive for criminals not to cooperate with law enforcement, since cooperation is no longer a specific determinant that a judge may consider in determining the sentence of the guilty.

More puzzling than the elimination of the so-called mandatory minimums is the legislature's decision to restrict the ability of the judiciary to impose severe penalties for the most serious drug related offenses. For example, under current law a judge may impose a sentence up to life in prison on a person found distributing more than five (5) kilograms of heroin. Now that same criminal finds himself facing no more than thirty (30) years behind bars, a sentence that may limit punishment even when circumstances would justify a greater sentence.

The intent of this legislation is, presumably, to give the judiciary discretion to impose a sentence that is commensurate with the underlying crime while given due weight to any mitigating circumstances that may diminish the drug dealer's guilt. In reality, judges already have that authority, and this legislation simply lowers the mandatory maximum sentence a judge may impose.

Whether intended or not, the practical import of this legislation is that the General Assembly is directing the judiciary to ease up on sentences for serious drug offenses. Current law affords discretion to the judiciary to mete out appropriate punishments. This law may stop the judiciary from sentencing the worst offenders to appropriate sentencing.

For these reasons, I disapprove of this legislation and respectfully urge your support of this veto.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald L. Carcieri". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Donald L. Carcieri
Governor