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Bill to End Missouri Sentencing Advisory Commission Passed in House, on to Senate

MAPA Says More Information Prior to Sentencing is Good; Misinformation is Always Bad

April 14, 2011, Jefferson City, MO – Today, Missouri HB 257, which is designed to repeal the provisions regarding Missouri Sentencing Advisory Commission (MoSAC), was perfected and passed by the House.

"We applaud the Missouri House and especially Rep. Stanley Cox, who sponsored this important bill, for addressing the intractable problems with the Missouri Sentencing Advisory Commission," says Dean Dankelson, Jasper County Prosecuting Attorney and President of the Missouri Association of Prosecuting Attorneys (MAPA). "We look forward to this bill moving to the Senate and continuing to spotlight these serious issues there."

Dankelson says MoSAC's statistics regarding recidivism are extremely misleading. "There is absolutely no scientific evidence to support MoSAC's claim that its recommended sentences reduce recidivism. In fact, a recent report demonstrated that MoSAC's recommendations may actually increase crime, rather than reduce crime. "

Prosecutors are also troubled by MoSAC's mischaracterization of its recommended sentences as "averages." MoSAC claims in its Sentencing Assessment Reports and elsewhere that its recommended sentences are "averages, based upon current sentencing and corrections practices in the state as a whole." However, MoSAC's Chairman has recently conceded that "they are not averages."

"Having more information prior to sentencing is good," said Platte County Prosecuting Attorney and MAPA Board Member Eric Zahnd. "But having misinformation is always bad. And nothing could be more misleading to judges than telling them that a sentence recommended by MoSAC is the average sentence, when that is simply not true."

Prosecutors have been working on solutions that address serious concerns regarding recommended sentences, recidivism data, and prison cost calculations from the MoSAC. Prosecutors believe one-size-fits-all recommendations are inappropriate and that MoSAC's recommendations for violent and sex offenses are unreasonably lenient.

In February, Zahnd testified in support of HB 257 as did Dr. Jeffery Milyo, Middlebush Chair and Professor of Social Sciences at the University of Missouri, Economics Department, who also submitted a report to the State Legislature on the commission's work. Prosecutors call for comprehensive study that will provide reliable scientific data on what sentences reduce recidivism and improve the rehabilitative outcomes of offenders.

"Several current practices of MoSAC are more likely to be misleading than informative when it comes to the costs and benefits of alternative sentences," said Milyo in a recent editorial published in the St. Louis Post-Dispatch. "The emphasis on budgetary costs to the state ignores the costs to society when a convicted criminal on probation commits more crime." Milyo continues to say that Judges do not randomly assign criminals to prison or probation. The threat to public safety is taken into consideration; therefore, those individuals who initially are sentenced to prison terms are expected to have a higher probability of re-offending. Thus, nothing is learned by observing that prison sentences are correlated with higher recidivism. It is feasible to conduct a proper evaluation of the effect of prison versus probation on recidivism, but neither the commission nor the state has done so.

“In principle, evidence-based sentencing holds much promise, but it must be implemented and evaluated objectively,” said Milyo. “The first step is to recognize that we simply do not yet know whether 'smart sentencing' is working in Missouri. The next step is to get serious about objectively analyzing the data to determine what sentencing policies really do work.”

Fortunately, an effort led by Missouri Supreme Court Justice William Price is already underway to secure grant funding for such a study that could encompass this issue.

Zahnd also testified that victims are frustrated as well. For example, in Platte County, a mother repeatedly videotaped herself and her boyfriend raping and sodomizing her daughter. The videos were made over a period of time. In some of the videos, the victim—the defendant’s own daughter—was pregnant and bound. The Missouri Sentencing Advisory Commission’s recommendation: probation.

MAPA has aggressively supported programs and legislation that focus on both accountability and results, and for collaboration among agencies. For the past two years, prosecutors have worked collaboratively with groups such as the Missouri Bar Criminal Justice Task Force, public defenders, judges and others to propose legislation and solutions that will help the state reduce costs without sacrificing the safety of its citizens.

The Missouri Association of Prosecuting Attorneys was established in 1969 for the purpose of providing uniformity and efficiency in the discharge of duties and functions of Missouri prosecutors and their assistants. The Association today continues to further its purpose through extensive training programs and by working with the development of legislation that is important to Missouri prosecutors.

For more information about MAPA, contact the Missouri Office of Prosecution Services at 573-751-0619 or visit our website at www.mops.mo.gov

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