

Safe & Just Michigan

Testimony of Safe & Just Michigan Opposing H.B. 4690-91

*House Judiciary Committee, August 27, 2025; 10:30am
Room 521, House Office Building; Lansing, MI 48933*

Good morning. My name is John Cooper. I am the Executive Director of Safe & Just Michigan, a non-partisan criminal justice policy and research organization based in Lansing.

Safe & Just Michigan opposes H.B. 4690-91, which would create harsh, unnecessary mandatory minimum terms of incarceration for all degrees of “fleeing and eluding.”¹ This is a transparent attempt to bypass judges, judicial discretion, Michigan’s system of indeterminate sentencing, and the specific facts of each case to impose a “one size fits all” minimum term of incarceration for every person convicted of fleeing and eluding - whether the facts justify it or not.

Mandatory minimums are a wasteful, ineffective sentencing policy that will make Michigan’s criminal justice system more expensive, less effective, and less just.² And is there no evidence that this “one size fits all” approach to sentencing will improve public safety.³

Safe & Just Michigan opposes H.B. 4690-91 and recommends that lawmakers vote no.

Key Points

1. Judicial Discretion is Essential to the Fair Administration of Justice

Michigan uses a system of indeterminate sentencing in which the legislature sets the maximum penalty, and judges set the ultimate term of years based on the facts of the case and the sentencing guidelines. This system is designed to ensure sentences are just based on the facts of the case, proportional to the harm caused, and consistent with the sentences in similar cases across the state.

H.B. 4690-91 rejects this system in favor of mandatory minimum sentences, which require a statutorily prescribed minimum sentence - in this instance, 182 days in jail for 4th degree fleeing and eluding, 1 year for 3rd degree, 2 years for 2nd degree, and 5 years for 1st degree. If passed, H.B. 4690-91 will require judges to impose these minimum sentences regardless of whether the

¹ See MCL 257.602A.

² See Famm, *Famm Policy Briefing: Mandatory Minimums* (March 2024), available at <https://famm.org/wp-content/uploads/2024/03/Mandatory-Minimum-Briefing-Paper-Final.pdf>.

³ It is commonly assumed that increasing penalties increases deterrence, but the empirical research does not support this conclusion. See, e.g., “Five Things About Deterrence,” U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, May 2016. <https://www.ojp.gov/pdffiles1/nij/247350.pdf> (“Increasing the severity of punishment does little to deter crime.”); National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (Washington, D.C.: The National Academies Press, 2014), 347. <https://nap.nationalacademies.org/read/18613/chapter/15#347> (“Policy makers asserted that requiring prison sentences for designated offenses would deter others from committing crimes. Yet the weight of evidence reviewed in this report is strong that such enactments have few, if any, deterrent effects.”).

judge thinks they are just or warranted on the facts, thereby eliminating judicial discretion below the minimum.

This approach to sentencing policy has already been tried in Michigan. In 1978, Michigan famously adopted “harshes in the nation” mandatory minimum drug sentences, which led quickly to explosive growth in the prison population and in corrections costs with little apparent impact on crime. These laws were repealed just two decades later, beginning in 1998 under Gov. Engler, and finishing in 2003 under Gov. Granholm.

The failure of mandatory minimums was a hard-learned lesson that Michigan should not need to learn again. Mandatory minimum sentences do not work and have very costly consequences.

2. Existing Law is Adequate to Deter and Punish Fleeing and Eluding

Based on the available evidence, existing law is adequate to deter and punish fleeing and eluding.

First, fleeing and eluding convictions are already punishable with jail or prison time, and the vast majority of convictions are *already* punished with a period of incarceration:⁴

- 4th Degree: 84% of convictions resulted in jail or prison time (388/464);
- 3rd Degree: 85% of convictions resulted in jail or prison time (522/617);
- 2nd Degree: 82% of convictions resulted in jail or prison time (56/68); and
- 1st Degree: 100% of convictions resulted in jail or prison time (2/2).

These are not figures that suggest the threat of incarceration is not being made and enforced, or that additional harshness might have some benefit. Rather, it appears that judges are taking these charges seriously and imposing custodial sentences based on the facts, which is their assigned role in our criminal justice system.

Second, the average sentences of people serving prison sentences for fleeing and eluding show judges taking these offenses seriously when they believe the facts warrant. For example, the average prison sentence for the 188 people in prison for 3rd degree fleeing and eluding was 3.2 years - three times the 1 year mandatory minimum proposed by H.B. 4690-91.⁵ Likewise, the average sentence for the 64 people serving sentences for 2nd degree fleeing and eluding was 4.1 years - twice the 2 year mandatory minimum proposed.

⁴ See Michigan Department of Corrections 2022 Statistical Report (May 31, 2023) at A-14 (felony sentences by offense). 2022 is the most recent year that is publicly available. For clarity, attempt convictions are excluded.

⁵ See Michigan Department of Corrections 2022 Statistical Report (May 31, 2023) at C-14 (prison population by offense). 2022 is the most recent year that is publicly available. For clarity, attempt convictions are excluded.

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These are not figures that suggest judges are being unnecessarily lenient - rather, they suggest that judges are sentencing based on the facts of the case, which is their assigned role in our criminal justice system.

Neither the high rate of admissions to prison nor the length of prison sentences themselves suggest that existing law should be changed, and the maximum sentences - 2 years for 4th degree, 5 years for 3rd degree, 10 years for 2nd degree, and 15 years for 1st degree - are all available in every case *if the facts warrant*. That judges are not currently imposing harsher sentences means *they do not believe that facts justify harsher sentences*. Yet H.B. 4690-91 seek to remove judges - the designated neutral factfinders in our criminal justice system - from the process, and require a prison or jail sentence *in every fleeing and eluding case whether justified by the facts or not*. That is misguided and inconsistent with the fair administration of justice.

3. The Costs of these Policies will Fall Primarily on Counties and County Jails

As noted above, Michigan's experiment with mandatory minimum drug laws in the 1970s, 1980s, and 1990s led to massive increases in the prison population and corrections costs. Because of the distribution of fleeing and eluding cases (mostly 3rd and 4th degree), and the impact of the mandatory minimums, the increase in the incarcerated population and costs from H.B. 4690-91 are likely to fall most heavily on the counties and county jails rather than the state prison system. This is because these bills will both increase length of stay for the people who were already receiving jail time for fleeing and eluding, *and* require those who previously would have just received probation to serve 182 days (or more) in jail. Given that many county jails are already old, expensive to operate, and overcrowded, this is an impact of H.B. 4690-91 that county stakeholders should consider carefully.

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Because existing law is adequate to punish and deter fleeing and eluding, and mandatory minimum sentences do not work and have very costly consequences, Safe & Just Michigan opposes H.B. 4690-91 and urges lawmakers to vote against these bills.

Respectfully submitted,

John S. Cooper /s/

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