



Legislative Testimony
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**Written Testimony on House Bill 6698, An Act Concerning Drug Policy,
Substance Abuse and Peer Support Services and Mandatory Minimum
Sentences for Certain Drug-Related Crimes**

Senator Maroney, Representative D'Agostino, Ranking Members Cicarella and Rutigliano, and distinguished members of the General Law Committee:

My name is Jess Zaccagnino, and I am the policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am writing to testify in opposition to Section 34 of House Bill 6698, An Act Concerning Drug Policy, Substance Abuse and Peer Support Services and Mandatory Minimum Sentences for Certain Drug-Related Crimes.

Today, there is widespread recognition that disordered substance use is, fundamentally, an illness to be treated and not a criminal problem to be punished. In fact, drug addiction is classified as a disability protected under the Americans with Disabilities Act.¹ Despite this, Connecticut and the rest of the U.S. have insisted on addressing the public health problem of people struggling with addiction through criminal law for decades. This decision is inappropriate, ineffective,² a major driver of civil liberties violations,³ and a massive contributor to mass incarceration.⁴

¹ See *Drug Addiction and Federal Disability Rights Laws*, U.S. DEPT HEALTH & HUM. SER., OFF. CIV. RTS. (Oct. 25, 2018), available at <https://www.hhs.gov/sites/default/files/drug-addiction-aand-federaldisability-rights-laws-fact-sheet.pdf>.

² *Every 25 Seconds: the Human Toll of Criminalizing Drug Use in the United States*, HUM. RTS. WATCH, (Oct. 12, 2016), available at <https://www.hrw.org/report/2016/10/12/every-25-seconds/human-toll-criminalizing-druguse-united-states>.

³ *How the War on Drugs Has Infringed on U.S. Civil Liberties*, RICE UNIV. BAKER INST. PUB. POL'Y, (May 17, 2013), available at <https://blog.chron.com/bakerblog/2013/05/how-the-war-on-drugs-has-infringed-on-u-scivil-liberties/>.

⁴ *Drug Policy*, PRISON POL'Y INITIATIVE, available at <https://www.prisonpolicy.org/drugs.html>.

Connecticut is currently in the midst of an opioid epidemic which is worsening, not improving.⁵ Connecticut residents are more likely to die from unintentional drug overdose than a motor vehicle accident.⁶ We need to respond to public health and epidemic responses to combat the rising number of deaths.

Police and other criminal legal system actors are simply not the appropriate people to handle the public health needs of substance use disorders; they are not public health actors whose sole job is to connect people with the health services they need. To the contrary, when police interact with people with active addiction, the results can be catastrophic. Over a quarter of people killed by police are contemporaneous drug users, and people with alcohol dependence account for almost 23 percent of people killed by police.⁷ Bringing police into overdose scenarios is likely to present an unreasonable risk of harm to people who need treatment.

Mandatory minimums take discretion away from judges and give it to prosecutors who can use mandatory sentences to frustrate constitutional rights and exacerbate existing racial disparities in the criminal legal system.⁸ In fact, judges across the country have spoken out against mandatory minimums because they force them to impose harsher-than-necessary sentences.⁹ They also create unwarranted racial disparities¹⁰ and there is evidence that prosecutors are more likely to charge Black people with crimes that have mandatory minimums than similarly-situated white

⁵ See *3-Month Rolling Average Rate per 100,000 Population and Count of ED Visits for 'Suspected Drug Overdose' Syndrome in Connecticut, by County of Residence, 2019*, CT DEP'T PUB. HEALTH (Oct. 17, 2019), available at https://portal.ct.gov/-/media/DPH/Injury-Prevention/Opioid-OverdoseData/Final_Drug_ED_Maps_Mar_2019toSep_2019.pdf?la=en.

⁶ *Opioids and Prescription Drug Overdose Prevention*, CT STATE DEP'T PUB. HEALTH, available at <https://portal.ct.gov/DPH/Health-Education-Management--Surveillance/The-Office-of-Injury-Prevention/Opioidsand-Prescription-Drug-Overdose-Prevention-Program#Data>.

⁷ Sara DeGue, Katherine A. Fowler & Cynthia Calkins, *Deaths Due to Use of Lethal Force By Law Enforcement*, 51 AM. J. PREV. MED., at Table 2, (Nov. 2016), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6080222/>.

⁸ Sonja B. Starr & M. Marit Rehani, *Mandatory Sentencing and Racial Disparity, Assessing the Role of Prosecutors and the Effects of Booker*, 123 YALE L.J. 2 (2013), <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2497&context=articles>.

⁹ See, e.g., Alison Siegler, *End Mandatory Minimums*, BRENNAN CTR. FOR JUSTICE (Oct. 18, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/end-mandatory-minimums>.

¹⁰ See, e.g., *ACLU Says Mandatory Minimums Are Discriminatory and Urges Inter-American Commission to Condemn Unfair Practice*, ACLU (Mar. 3, 2006), <https://www.aclu.org/press-releases/aclu-says-mandatory-minimums-are-discriminatory-and-urges-inter-american-commission>.

people.¹¹ Mandatory minimums have resulted in overall lengthier prison sentences.¹² Moreover, mandatory minimums do not appear to have any significant deterrent effect.¹³ In the words of a former federal prosecutor and former federal judge, mandatory minimums “have caused untold misery at great expense. And they have not made us safer.”¹⁴ Finally, mandatory minimums are not a fiscally sound policy and are less cost-effective than nearly every other alternative.¹⁵

The ACLU-CT is dedicated to ending mass incarceration. That effort requires that the General Assembly continue making progress towards reducing the number of people who enter the criminal legal system and reducing the amount of time that most people who do not enter the system serve. The legislature will not achieve that kind of progress if it returns to the same old tired, unproven punitive model, with mandatory minimums and tough-on-crime thinking that has only resulted in injustice. This bill, attempts to do just that and spoils its positive aspects, like putting Opioid Settlement Funds towards social services programs. Therefore, the ACLU-CT opposes this bill unless amended to remove Section 4’s archaic mandatory minimum provisions.

¹¹ *Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System*, SENTENCING PROJECT (Apr. 19, 2018), <https://www.sentencingproject.org/reports/report-to-the-united-nations-on-racial-disparities-in-the-u-s-criminal-justice-system/>.

¹² See, e.g., Tanya Golash-Boza, *Column: 5 Charts Show Why Mandatory Minimum Sentences Don’t Work*, PBS (June 1, 2017), <https://www.pbs.org/newshour/politics/5-charts-show-mandatory-minimum-sentences-dont-work>.

¹³ *Mandatory Sentencing Was Once America’s Law-and-Order Panacea. Here’s Why It’s Not Working*, FAMILIES AGAINST MANDATORY MINIMUMS (accessed Feb. 21, 2023), <https://www.prisonpolicy.org/scans/famm/Primer.pdf>.

¹⁴ *Sessions Wants Them Back*, WASH. POST (May 15, 2017), <https://www.washingtonpost.com/posteverything/wp/2017/05/15/mandatory-minimum-sentences-are-cruel-and-ineffective-sessions-wants-them-back/>.

¹⁵ Jonathan P. Caulkins, *Are Mandatory Minimum Drug Sentences Cost Effective?*, RAND CORP. (1997), https://www.rand.org/pubs/research_briefs/RB6003.html.