

seriously. They should not be hobbled by shortsighted, arbitrary statutes which rob them of their discretion.

I urge, therefore, that minimum mandatory penalties be stricken from the bill and broad discretion left to the courts in making the penalty fit both the crime and the criminal. There are some other sections of the bill that I consider undesirable and will, if the committee wishes, file a separate memorandum at a later date.

Average time served and average sentence of burglary offenders released from State institutions in 1960

State	Average served in months	Average sentence in months	State	Average served in months	Average sentence in months
Alabama.....	22.7	40.1	Montana.....	13.9	42.7
Arizona.....	20.2	46.7	Nebraska.....	21.4	53.9
Arkansas.....	23.5	41.4	Nevada.....	16.7	140.7
California.....	26.9	50.5	New Hampshire.....	21.3	48.6
Colorado.....	16.5	101.5	New Mexico.....	22.4	51.6
Connecticut.....	17.3	57.0	New York.....	33.7	80.7
Delaware.....	14.9	21.9	North Carolina.....	22.4	50.4
District of Columbia.....	41.1	64.5	North Dakota.....	16.3	44.4
Florida.....	23.6	51.4	Ohio.....	25.4	178.4
Georgia.....	27.0	70.7	Oklahoma.....	21.3	41.7
Hawaii.....	38.3	217.3	Oregon.....	18.9	36.3
Idaho.....	16.3	91.5	Pennsylvania.....	32.4	71.4
Illinois.....	30.8	71.7	Rhode Island.....	24.8	36.7
Indiana.....	29.8	77.0	South Carolina.....	29.5	45.6
Iowa.....	34.6	122.5	South Dakota.....	14.3	31.1
Kansas.....	21.3	117.8	Tennessee.....	29.4	52.6
Kentucky.....	18.4	28.9	Texas.....	25.7	55.4
Louisiana.....	22.8	47.7	Utah.....	24.3	202.5
Maine.....	15.5	42.0	Vermont.....	13.1	31.1
Maryland.....	18.9	30.8	Virginia.....	30.2	53.1
Massachusetts.....	20.2	63.1	Washington.....	26.0	198.2
Michigan.....	22.2	137.5	West Virginia.....	25.0	128.1
Minnesota.....	25.3	73.8	Wisconsin.....	16.7	38.0
Mississippi.....	27.3	39.4	Wyoming.....	15.2	33.7
Missouri.....	20.9	40.6			

The CHAIRMAN. You refer to the penalty provisions. You are referring to the mandatory minimum sentences?

Mr. BENNETT. I am referring, sir, particularly to title V.

The CHAIRMAN. Very well.

Mr. BENNETT. And the sentences prescribed there.

You will note that the penalty for burglary in section 823 is 5 years for second degree burglary, and that is a minimum mandatory penalty which the judge must impose, of 5 years, for second degree burglary, and a mandatory 20 year minimum sentence for first degree burglary.

These penalties are without parallel anywhere in the world. There is no State, no place, where these penalties are so large or as Draconian as these, and I cannot understand the reason why these penalties should have been proposed.

They are inconsistent. Already the District of Columbia is sending men to prison for burglary and giving them higher average sentences than any other jurisdiction in the country. I will file with the committee a statement showing these penalties.

In the District of Columbia the average time served in months for burglary is 41.1 months as contrasted, Senator McIntyre, with New Hampshire, which is 21.3 months, and so it goes.

Some of these States, for burglary, have the average time served as low as 15 months. Wisconsin, which has a very fine criminal record, there the average time served for burglary in Wisconsin is only 16 months, and so it goes.