

Requested Sentencing Reform: Change Felony DUI to a Nonviolent Crime

We were pleased with the passing of the bipartisan First Step Act which released thousands of inmates, giving them hope & a second chance! The First Step Act helped drug offenders in Federal prisons. Many states are following that lead and beginning to re-evaluate sentencing guidelines. Our prayer is that South Carolina will reform sentencing for drug and alcohol offenders.

Our son Brian Jarrell, an Honors Economics graduate at University of South Carolina, entered South Carolina Department of Corrections (SCDC) on November 7th, 2016 with a 12-year sentence for Felony DUI. Felony DUI is classified as a "violent crime" (highest level A category) with 85% of the sentence served and no parole or work credits, with up to a 25-year maximum sentence! Our son is not a violent criminal in a car accident having had no criminal motive or violent intent to hurt anyone. South Carolina should change its unjust Felony DUI laws. Felony DUI should not be classified as a violent crime. The article, "DUI: A Crime of Violence? The Supreme Court Gets it Right" says in a rare unanimous decision (Leocal v. Ashcroft, No. 03-583; November 9, 2004) the Supreme Court stated the obvious: DUI is simply not a crime of violence, even if someone is injured in its commission. A ... "crime of violence", the Court said, required "a higher mens rea [mental state] than the merely accidental or negligent conduct involved in a DUI offense." In other words, the requirement of "the use of physical force against" a person necessarily involves the intent to use that force. How can you be accidentally violent?

South Carolina Legislators should reduce sentences for both drug offenders AND alcohol offenders. Both have victims and addictions. At a judiciary committee meeting in February, 2019, we were told anyone having a victim would not be included in the sentencing reform bill. We were devastated to hear it was only a drug offender's reform bill. Yet we all know drug offenders have victims. We just don't always know who their victims are. Drug and alcohol offenders should be included in the proposed sentencing reform bill in January 2021. Drug and alcohol offenders are found together on the violent crimes list under "Extreme Drug Crimes." Surprisingly, Felony DUI is classified in the "A" category which is the highest violent category. SC Legislators should take Felony DUI off the violent crimes list. Solicitor Stumbo from Greenwood at the Senate Corrections & Penology meeting on February 21, 2019 said the only group from the violent crimes list that stands out that he would include for reform and early release was the Felony DUI group because "they are not violent people and no threat to the public".

SCDC Director Bryan Stirling spoke at the House Legislative Oversight Committee meeting on March 21, 2019 about Felony DUI inmates, saying "they have no pattern of criminality, have not come in with any other crimes other than DUI, cause no trouble and when they leave prison, they don't come back. They are being placed in Level 3 maximum security prisons with gang members and armed robbers." Felony DUI offenders need to be placed in level 1 facilities. In October 2019 SCDC officials presented a new placement system within their prisons. Director Stirling's decision to correct this situation is admirable. Another answer to help Director Stirling with safer, more appropriate placement would be for SC Legislators to make Felony DUI what it actually is- a non-violent crime and reduce the 25yr max sentence to 15yr retroactive for both. This would be more

consistent with SC sister states in the Fourth Circuit Jurisdiction- Maryland (5yrs), NC (8yrs), Virginia & West Virginia (10yrs) with Felony DUI being a non-violent crime in all these states. Max reduction sentencing has previously been proposed for drug offenders, but not alcohol offenders.

The punishment of a 25-year max sentence for Felony DUI doesn't fit the crime. Felony DUI can be sentenced to more years than a person who shoots someone intentionally. A female school teacher in SC was sentenced to 23 years for Felony DUI with no previous criminal record. Just over 10 years ago Felony DUI was involuntary manslaughter with a 5-year sentence. You don't treat an alcoholic with a sickness/disease (repeat DUIs) with more incarceration but with more rehabilitation. According to Dr. Howard Becker, Director of Charleston Alcohol Research Center and a Psychiatry Professor at Medical University of South Carolina, the heavy problem of alcohol use disorder is a serious medical condition, a brain disorder with a chemical imbalance of the brain. Alcohol offenders drink legal alcohol with media and social pressure encouraging consumption not wanting or planning on breaking the law where they or others can be hurt or killed. This negligent car accident can happen to anyone-- your grandmother, son, daughter or you and your spouse. Is a Felony DUI Grandmother a violent criminal? Absolutely not!

Drinking and Texting while driving is the same crime called "Distracted Driving" by the National Highway Traffic Safety Association (NHTSA). Both crimes have car accident victims and have no violent intent or motive to hurt anyone. Texting while driving has three types of distraction: visual- eyes off the road; manual- hands off the steering wheel; and cognitive- mind off the road! People who text while driving are 6 times more likely to get in an accident than those who drive intoxicated. Texters with their phone addiction choose to get in their car texting with a "sober", alert mind knowing the dangers. Drunk drivers with their alcohol addiction get in their car with an inebriated mind that inhibits them from making wise choices. They both swerve in the other lane, run a red light or backend a vehicle. The results are the same loss of life, yet no criminal penalty is applicable to the texter who does not face any of the harsh consequences of jail time up to 25 years like the Felony DUI offender. Neither are violent criminals but both are traffic violators. Felony DUI offenders have no violent intent or criminal motive in an unintentional car accident and these are clearly non-violent crimes. How can one be accidentally violent? They can't. Violent criminals have violent intent targeting, attacking, and killing their victims intentionally by raping, stabbing and shooting them.

Please help support and urge Governor McMaster and the other SC Legislators to pass a sentencing reform bill for Felony DUI. We ask for grace and mercy, along with the power of your influence to give hope and a second chance to these "non-violent" alcohol offenders. Reclassification to a non-violent crime and max sentence reduction from 25 to 15 years retroactive would qualify them for parole with a chance to earn work credits toward an earlier release. Thank you for your continued efforts to bring criminal justice reform to our state of South Carolina!

Donna & Rick Jarrell

Contact Info- Cell#: 843.607.5086 Email: dwarrel@gmail.com

Saving Lives and Saving \$Billions

Brian and I (his mom) are co-founders of P.O.I.D. (Parents of Intoxicated Drivers). In order to save lives Brian produced a hip-hop music video, "I Know I'm a Fool", telling of that fateful night. We both wrote a song called "MODD Cry", a Mother of a Drunk Driver's Cry, for the new high-tech ignition interlocks to be put in all new cars. "MODD Anthem" was written with a yearning for drunk driving to come to an end. These three music videos, along with our poem called "A Drunk Driver's Heartfelt Plea", are powerful tools to educate people on the horrors of drunk driving accidents and the need for preventative life-saving technology.

Brian and I also wrote a legislative bill proposal advocating for Federal legislation to put DADSS (Driver Alcohol Detection System for Safety) as a standard in all new cars, just like the mandatory seatbelt. The HALT Drunk Driving Act was introduced by Congresswoman Debbie Dingell in January 2019 in the U.S. House and the (RIDE) Act of 2019 was introduced by Senator Tom Udall and Senator Rick Scott in October in the U.S. Senate. Both are asking for DADSS to be put in all new cars by 2024. This Bi-Partisan Federal legislation needs to be a part of the 2020 Election Campaign Platform, saving the U.S. Govt. 132 billion dollars (MADD statistics), 11,000 lives, and 290,000 injuries per year. One person in the U.S. dies every 48 minutes in a drunk driving accident - 30 per day. The HALT Bill HR514 honors the 5 members of the Abbas family - both parents and their three children - who were killed by a drunk driver who was also killed on January 6th, 2019. Eleven auto manufacturers along with the NHTSA (National Highway Traffic Safety Administration) funded and created high tech breath and touch sensors to calculate BAC levels in half a second with no inconvenience to the sober driver. Road test cars are now in Virginia. NSC (National Safety Council) encourages auto manufacturers to not wait for legislation to pass but to incorporate these DADSS devices as soon as they are perfected and ready for installation. The estimated cost is \$300 about the same as any other safety option. If above .08 BAC, the car won't start. The car is the cure to ending these tragedies and for drunk driving to become a thing of the past.

Sincerely,

Donna and Rick Jarrell

Contact Info: Cell# 843.607.5086 Email: [dwjarrel@gmail.com](mailto:dwjjarrel@gmail.com)

***NOTE: Access music videos on YouTube. I Know I'm a Fool POID, MODD CRY POID, and MODD Anthem POID and at [Facebook.com/POID.org](https://www.facebook.com/POID.org)**