



Written Testimony of Daniel Landsman
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In support of HB 179 (Gardner)
House Committee on Courts of Justice, Criminal Subcommittee
January 31st, 2024

Chair Watts and members of the House Committee on Courts of Justice Criminal Subcommittee, thank you for the opportunity to provide testimony today in support of HB 179 – legislation to grant judges discretion to order mandatory minimums be served concurrently with other sentences.

FAMM is a nonpartisan, nonprofit organization that advocates sentencing and prison policies that are individualized and fair, protect public safety, and preserve families. We are pleased to see the Virginia General Assembly consider reforms that grant judges discretion to order mandatory minimums be served concurrent with other sentences, rather than mandate judges order these sentences served consecutive. Mandatory minimum reform has been a part of FAMM’s mission since our creation in 1991.

Virginia has an extensive list of crimes that carry mandatory minimum sentences, and with few exceptions, judges are required to order these sentences to be served consecutively to all other sentences. As a result, judges are required to impose lengthy prison sentences without considering the circumstances of each case or the needs or role of each person. This one-size-fits-all sentencing scheme is unjust and does not increase public safety. In fact, these laws waste public safety resources, harm communities, and diminish respect for the justice system by putting the wrong people in prison and keeping people in prison too long.

FAMM support HB 179 because **there is no evidence to support the claim that mandatory minimum sentences reduce crime or drug use**. Criminologists have long made it clear that the certainty of being caught and punished quickly, not lengthy sentences, deters crime.¹ As it relates to drug-related crime, the body of evidence weighs even more heavily against lengthy punishment. A 50-state study from the Pew Charitable Trusts found no significant relationship between drug sentencing and three key indicators of drug epidemics: illicit drug use, drug arrests, and overdoses rates.² There is also evidence that show mandatory minimums are not effective methods of deterring gun violence or gun crimes.³ Crime rates respond to policies that ensure swift and certain sanctions

¹ “Five Things About Deterrence”, National Institute of Justice, June 5, 2016. <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>

² “More Imprisonment Does Not Reduce State Drug Problems,” Pew Charitable Trusts, March 2018, https://www.pewtrusts.org/-/media/assets/2018/03/pspp_more_imprisonment_does_not_reduce_state_drug_problems.pdf

³ Stephanie Kollmann and Dominique D. Nong, “Combating Gun Violence in Illinois: Evidence-Based Solutions,” Bluhm Legal Clinic, October 17, 2013, http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?filename=3&article=1000&context=jclc_symposium&type=additional (“[T]he evidence indicates, repeatedly, that mandatory minimum sentences will not reduce gun violence. On the contrary, such restrictions are both costly and counterproductive.”); Jens Ludwig and Jean Raphael, “Prison Sentence Enhancements: The Case of Project Exile” in *Evaluating Gun Policy: Effects on Crime and Violence*, ed. Philip J. Cook and Jens Ludwig, at 280 (Washington, D.C.: The Brookings Institution) (finding in

on those who choose to break the law. It is the certainty of apprehension, not the severity of punishment that deters crime.

Further, **granting judges discretion to order mandatory minimums to be served concurrently would eliminate unreasonable, unnecessary, and counterproductive prison sentences.** Sentences should fit the crime and each person's unique role and needs. Stacking up mandatory minimum sentences does not allow courts to consider all of the relevant facts and circumstances about the crime and its impact on the community, or the person's criminal record, role, motive, age, likelihood of rehabilitation, or need for mental health or drug treatment, for example. Too often, the sentence resulting from consecutive mandatory minimums is unjust, irrational, or even counterproductive. The public is not safer when the people go to prison for too long. Allowing concurrent mandatory minimum sentences does not mean people go without accountability. It means judges would be able to decide more appropriate sentences rather than apply one-size-fits-all punishments. It means the state would focus expensive prison resources wisely to increase public safety. It means families and communities would not be ripped apart for decades by unjust sentences.

Reforming mandatory sentencing laws is critical to achieving the legislature's goal of restoring racial equity in the state's criminal justice system. Black people make up 19 percent of the state's population but 54 percent of its prison population, and mandatory sentences have long been shown to contribute to racial disparities in the justice system.⁴ Data from 2020 show stark racial disparities in mandatory minimum sentencing with 40.5 percent of Black people incarcerated in Virginia DOC serving at least one mandatory minimum while 25 percent of White people incarcerated in Virginia DOC have at least one mandatory minimum.⁵

We are grateful to this committee for considering the advancement of HB 179. Please let me know if you have any further questions. Thank you for your time and consideration of our views.

a 2003 study of Virginia's "Project Exile" that mandatory gun sentence enhancements "demonstrated fairly conclusively that [Project Exile] is a bust. It has no impact. It did not work.").

⁴ "Virginia Profile," Prison Policy Initiative, October 2023, <https://www.prisonpolicy.org/profiles/VA.html>

⁵ "Disparities in Sentencing among Inmates with Mandatory Minimum Sentences," Virginia Department of Corrections, December 2020, <https://vadoc.virginia.gov/media/1646/vadoc-research-disparities-in-sentencing-among-offenders-2020.pdf>