



Written Testimony of Daniel Landsman
Vice President of Policy, FAMM
In Support of HB 834
Virginia House Committee on Courts of Justice
Criminal Subcommittee
January 31, 2024

I would like to thank the Chair Watts and the members of the House Courts of Justice Criminal Subcommittee for the opportunity to provide written testimony in support of HB 834, a bill that would allow opportunities for incarcerated people who have served at least 15 years of their sentence to petition the court for a reduction of their sentence. **FAMM supports HB 834 and urges the Committee to pass this crucial piece of legislation.**

FAMM is a nonpartisan, nonprofit organization that advocates sentencing and prison policies that are individualized and fair, protect public safety, and preserve families. Creating and expanding access to “second look” mechanisms - pathways to review the appropriateness and necessity of a person’s continued incarceration - is among FAMM’s top priorities across the country. HB 834 would establish an avenue for a second look at the sentences of people who have served significant time behind prison walls. It would create an opportunity for people to ask the court to weigh the public benefit of their continued incarceration versus release into the community.

HB 834 is by no means a get out of jail free card. The bill would require the court to consider a number of crucial factors in making its determination such as disciplinary record while incarcerated, engagement in rehabilitative, educational, or therapeutic programming, victim impact statements, and age of the individual at the time of the hearing and the time the offense occurred. HB 834 does not mandate an action by the judge. If the judge determines that the individual is not ready for resentencing, they may deny the petition.

HB 834 is founded on a growing body of evidence that our strong reliance on life and long sentences is not an effective strategy for improving public safety. First, we know that the severity of a punishment does not deter criminal behavior. Rather it is the certainty of being caught and



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swiftly held accountable that deters crime.¹ Second, we understand that many people age out of serious criminal behavior. Research has shown that the rate of re-incarceration for individuals released from prison declines as a person ages - with one study finding the three-year re-incarceration rate² for people over 55 years old to be as low as 3 percent across all offense types.³ Second look would grant Virginia's judges an opportunity to safely release people from its increasingly aging prison population. The percentage of Virginia's prison population over the age of 55 nearly doubled between 2011 and 2019 - constituting 14 percent of the prison population as of 2019.⁴

HB 834 would also help Virginia address stark racial disparities in its prison population. Black Virginians make up about 19 percent of the Commonwealth's population but comprise 54 percent of its prison population. Approximately 40 percent of Incarcerated Black Virginians are serving at least one mandatory minimum sentence while 25 percent of White Virginia's in the Department of Corrections have at least one mandatory minimums. Virginia law that requires mandatory minimums be served consecutively result in often lengthy and ineffective sentences. HB 834 would give judges the discretion to consider the continued effectiveness of these long sentences and help reduce racial disproportionality in the Virginia Department of Corrections through safe, public-safety informed resentencings.

Thank you for considering FAMM's views on HB 834. We urge this committee to vote to advance this important piece of legislation.

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

² In this report, recidivism was defined as a person being incarcerated for a "new court commitment" under the National Corrections Reporting Program.

³ Prescott, J.J., Pyle, B., and Starr, S.B. (2020). Understanding Violent-Crime Recidivism. Notre Dame Law Review, 95:4, 1643- 1698, 1688. <http://ndlawreview.org/wp-content/uploads/2020/05/9.-Prescott-et-al..pdf>

⁴ "The Need for a Second Look in Virginia", Justice Policy Institute, February 2022, <https://justicepolicy.org/wp-content/uploads/2022/02/VA-Second-Look-02-04-2022.pdf>