



## **Bill Summary: Elimination of Mandatory Minimum Sentences SB 1443 (Sen. Edwards)**

**Bill Purpose:** If passed, SB 1443 would eliminate Virginia’s mandatory minimum sentences. It would also provide some people who are currently serving a mandatory sentence the opportunity to petition a judge for a sentence modification.

**Bill Status:** *This bill is not a law yet.* To become law, this bill must go through the committee process, pass through both the Senate and House, and be signed by the governor.

### **What would the bill do?**

1. If passed, SB 1443 would eliminate all of Virginia’s mandatory minimum sentences, effective July 1, 2021. Anyone sentenced on or after July 1, 2021, would not be subject to a mandatory minimum sentence.
2. SB 1443 would also allow some incarcerated people who received a mandatory minimum sentence for a felony committed before July 1, 2021, to petition the court for a sentence modification. People serving a sentence for a Class 1 felony OR any felony that was punishable by a mandatory minimum term of life are **not** eligible to have sentences modified.

### **How does the sentence modification process work?**

- People convicted of a felony before July 1, 2021, and serving a mandatory minimum sentence for that conviction can petition the sentencing court to have their sentence modified. People convicted of a Class 1 felony or any felony that was punishable by a mandatory minimum term of life in prison are ineligible for a resentencing.
- For those eligible for resentencing, the court has the power to suspend the unserved portion of the sentence, place the person on probation, or otherwise modify the sentence. (Note: the modification cannot increase the original sentence imposed.)
- The petition must be filed **by July 1, 2024**, by the petitioner or their counsel with the circuit court that entered the original judgment on a form provided by the Supreme Court of Virginia. The petitioner must also provide a copy of their petition to the Commonwealth’s attorney of the city or county where the petition is filed.
- The Commonwealth’s attorney can answer or object to the petition within 30 days of receiving the petition. The court can give the Commonwealth’s attorney an additional 30 days to reply, for good cause shown.
- If the person is eligible for a sentence modification, the court has to review any court records related to the petition, discretionary sentencing guidelines, an objection or answer from the Commonwealth’s attorney, and the victim impact statement, and can do the following:
  - Dismiss the petition without a hearing, in which case the court has to provide a written explanation for the dismissal;
  - Conduct a hearing. In this case, the Commonwealth’s attorney has to make reasonable efforts to notify victims. At the hearing, the court can dismiss the petition, or for a good cause shown by the petitioner, suspend the unserved portion of the sentence, place the person on probation, or otherwise modify the sentence.



- Victims are permitted to testify at a hearing and can also submit a victim impact statement to be considered by the court at the hearing.
- The court is not required to review or conduct a hearing on any subsequent petitions filed by the same petitioner for the same offense after the court has already entered an order to dismiss a petition or modify a sentence. In other words, people may only request a resentencing once.

**Important timelines to note:**

- Any petition seeking a modification has to be filed **by July 1, 2024**. Petitions filed after this date have to be dismissed by the court.
- By **July 31, 2021**, the Department of Corrections, the Department of Juvenile Justice, and the superintendent or sheriff of any state or local correctional facility have to provide a copy of the petition form to any incarcerated person who is serving a mandatory minimum sentence for a felony committed before July 1, 2021. (Again, a Class 1 felony and any felony that was punishable by a mandatory minimum term of life in prison are ineligible for resentencing.)

