



Bill Summary: Second Look in Virginia
HB 906 (Del. Coyner) / SB 378 (Sen. Chapman Petersen)

Bill purpose: If passed, these identical “second look” bills (HB 906/SB 378) would allow certain people in Virginia state prisons to petition the court to review and adjust their sentences if the person meets certain eligibility criteria and the court finds good cause to change the sentence. **FAMM supports this bill.**

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 the bill would do: If passed, HB 906 and SB 378 would allow people in Virginia state prisons to petition the court for a review of their sentences if the person

1. Has served at least 10 years of his sentence if he was 25 years old or younger at the time of the offense OR has served at least 15 years of his sentence if he was 26 years old or older at the time of the offense; AND
2. Meets the following behavioral standards, unless the prosecutor or court agree to waive these standards:
 - The person has been earning good conduct time, good conduct allowance, or earned sentence credits as a Class Level I as defined by the Department of Corrections (DOC) operating procedures¹ for at least 5 consecutive years prior to filing the petition; AND
 - The person has not been convicted of a 100 series disciplinary offense OR more than one 200 series disciplinary offense as defined by the DOC operating procedures² during the 5 years preceding the filing of the petition; AND
3. Has not
 - filed a petition for modification of a sentence under this law within the last 3 years,
 - had a sentence modified under this law within the preceding 5 years, or
 - filed more than two petitions for modification of a sentence under this law. In other words, a person can only petition twice for a review of their sentence under this law.

The DOC must notify people in prison if they meet these criteria and give the person the proper application forms to petition the court.

When considering a petition, the court must hold a hearing within 90 days and can adjust the sentence – including any mandatory minimum sentence – for “good cause,” after considering a number of factors, including

- The person’s age and maturity now and at the time of the offense
- The person’s rehabilitation, education, service, disciplinary record, mentorship of others, and compliance with his case plan in prison
- Victim statements
- The person’s home and employment plans for life after prison



- Whether the person received a much longer sentence because they went to trial
- The person's mental, physical, and psychiatric health and treatment
- Whether the person was a victim of abuse and has received treatment for that abuse
- Support from the community
- Any other information the court finds relevant.

The court can appoint a lawyer to help a petitioner. The court must file a written explanation explaining the grant or denial of the petition.

People who were sentenced under laws that have since been changed can petition the court at any time for a sentence adjustment under the new law. When seeking retroactive application of a new law, the person automatically qualifies for a sentence adjustment and does not need to show good cause to obtain a new sentence.

¹ To see how the Virginia DOC awards time credits and classifies people in prison, read these operating procedures: <https://vadoc.virginia.gov/files/operating-procedures/800/vadoc-op-830-3.pdf>. Under current operating procedures, people serving life sentences imposed after January 1, 1995, are not eligible for earned sentence credits but may nonetheless be classified as being in Class I for recognition of their rule compliance.

² To see the list of 100 and 200 series disciplinary infractions, read these operating procedures: <https://vadoc.virginia.gov/files/operating-procedures/800/vadoc-op-861-1.pdf>. Examples of 100 series disciplinary offenses include assault, riot, escape, refusing to participate in drug testing, possession of drugs or cell phones, spitting on or threatening others. Examples of 200 series disciplinary offenses include refusing to work, disobeying an order, lying to a correctional officer, possessing stolen property, fighting, hiding, possessing contraband, and being in an unauthorized area.