



**Written Statement of Molly Gill
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Submitted to the Senate Judiciary Committee, New Mexico Legislature
In Support of SB 43
February 4, 2022**

Thank you, Chair Cervantes, Vice Chair Duhigg, and members of the committee, for considering this written statement from FAMM in support of SB 43. SB 43 would eliminate life without parole sentences as a punishment option for children and allow people convicted as children and serving life sentences now to be considered for parole after spending 15 years in prison. FAMM supports this bill and urges the legislature to pass it this year.

FAMM is a national nonpartisan, nonprofit organization that advocates sentencing and prison policies that are individualized and fair, protect public safety, and preserve families. Part of our Second Chances Agenda is supporting legislatures across the country in creating more pathways for extreme sentences to be reviewed and adjusted through a “second look” sentencing mechanism (which may include parole), medical and geriatric release or parole, and clemency. We are pleased to see the legislature consider SB 43. Though its impact on the current prison population is small, it is nonetheless an important reform that will increase public safety, save money and use prison resources wisely, and give people second chances and an incentive to rehabilitate themselves in prison.

SB 43 would codify what all parents know: children can do harmful, even terrible things – and they also usually outgrow it. SB 43 recognizes that children change as they age and mature, and that the risk that a person will reoffend declines dramatically after the age of 30. SB 43 allows people sentenced as children to be *considered* for release after they have served 15 years of their sentence. Release after 15 years is not guaranteed – it is only a chance to prove that one is rehabilitated and safe and trustworthy enough to come home on parole.

SB 43’s 15-year parole eligibility date is reasonable and in line with legal standards and the standards other states are considering in similar legislation. The American Law Institute’s Model Penal Code recommends eligibility for a sentence review after 10 years¹ for children who are serving lengthy adult sentences. This benchmark was reached with the advice of sentencing experts, academics, practicing lawyers, and current and former judges, including former New Mexico Supreme Court Justices Richard Bosson and Ed Chavez.

The current New Mexico Supreme Court has written favorably² on a 15-year review for juveniles who commit serious crimes. Fifteen years is the standard in many other states, including West

¹ See Model Penal Code § 6.11A, p. 215,

https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/mpcs_proposed_final_draft.pdf.

² *Ira v. Janecka*, op. available at <https://law.justia.com/cases/new-mexico/supreme-court/2018/s-1-sc-35657.html>.



Virginia, Nevada, D.C., California, and Oregon. In 2021, six states considered³ legislation to set 15 years in prison as the point at which people could seek parole or resentencing. A new bipartisan bill in Virginia⁴ would allow resentencing after 10 years in prison for anyone who was under age 25 at the time of their offense, and a bipartisan bill was introduced last week in Michigan establishing parole review after 10 years for children serving extreme sentences.

Some states have set parole eligibility at a point beyond 15 years, but many of these laws were passed seven or eight years ago. Since that time, studies have shown that the recidivism rate is only one percent⁵ for people who received parole from long sentences for crimes committed as minors. A life sentence may be deserved, but after 15 years in prison it may no longer be necessary to keep us safe. Public safety must be our priority. No one is safer when the state wastes taxpayer dollars and a prison cell on someone who does not need to be there.

Making children wait longer than 15 years for a chance to prove that they are rehabilitated and deserve a second chance is wasteful and harmful. People over 30 are dramatically less likely to be arrested or commit new crimes,⁶ even when the original offense was violent. Young people literally do grow out of crime as they age. For most, 15 years is enough time for that growth to happen. Those who do not show that growth in 15 years can be denied parole under SB 43.

We hope you will pass SB 43. Thank you for considering our views.

³ https://docs.google.com/spreadsheets/d/13a-FuNUNGaphzq-GsAd8E54veaZhU_nWkmh2gxy-iCs/edit#gid=0

⁴ <https://famm.org/wp-content/uploads/VA-Second-Look-2022-bill-summary.pdf>

⁵ <https://digitalcommons.montclair.edu/cgi/viewcontent.cgi?article=1084&context=justice-studies-facpubs>

⁶ <https://famm.org/wp-content/uploads/Aging-out-of-crime-FINAL.pdf>