



June 26, 2023

Chair Brooke Pinto
Committee on the Judiciary and Public Safety, Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 106
Washington, DC 20004

Dear Chair Pinto and members of the Committee on the Judiciary and Public Safety:

I write to express FAMM's opposition to B25-291 and urge the Council to reject it. This bill would create mandatory minimum sentences for certain gun possession offenses and undermine the intent of the Incarceration Reduction Amendment Act (IRAA). The proposed bill will not achieve the goal of reducing gun violence in Washington, DC, but will lead to unnecessary and excessive incarceration that wastes taxpayer resources and does not increase public safety.

FAMM (which originally stood for Families Against Mandatory Minimums) is a national, nonprofit, nonpartisan sentencing and prison reform advocacy organization. For more than 30 years, we have advocated sentences that are fair, individualized, protect public safety, and preserve families. We are not against prisons or punishment. We are against one-size-fits-all and excessive sentences that produce absurd and unfair results, diminish respect for the justice system, ignore rehabilitation, and increase prison costs for taxpayers without making them safer.

FAMM appreciates the seriousness of gun crime and violence in Washington, DC, and agrees that those using and carrying illegal guns should be held accountable – and that may warrant prison time. Nonetheless, we oppose the proposed two-year mandatory minimum prison sentences for possessing or selling a stolen gun or ammunition and possessing with intent to distribute an illegal gun. All the evidence shows that mandatory minimum sentences do not actually reduce or deter crime or gun possession or use, but do lead to unnecessary, arbitrary, and costly over-incarceration.

No one has presented data or evidence that current sentences for illegal possession and sale of weapons and ammunition are inappropriate or too lenient. There is also no evidence that our current sentences for gun crimes are deterring or reducing gun possession or gun violence in the District. Decades of study and data show that it is the certainty of apprehension, not the length of sentence, that deters crime.¹ Other states and the federal government have created similar mandatory minimum gun sentences in the hope that they would reduce homicides and gun possession and violence. Studies of these efforts showed that the mandatory minimum sentences had no impact on and could not be causally connected to reductions in violent and gun crime.²

¹ National Academy of Sciences, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, Chap. 5 (2014), <https://nap.nationalacademies.org/read/18613/chapter/5#82>.

² See, e.g., Stephen Raphael and Jens Ludwig, *Prison Sentence Enhancements: The Case of Project Exile*, https://gspp.berkeley.edu/assets/uploads/research/pdf/Exile_chapter_2003.pdf.

Mandatory minimum sentences do not work and produce unjust and unintended consequences. A better response would be investing more in tools like community violence prevention, more street lighting, hiring more homicide detectives to close cases, and more forensic testing to produce evidence that can lead to convictions. All of these tools actually increase the certainty of apprehension, lead to convictions, and remove people using guns from the streets. Solving more crimes, not indiscriminately locking people up for possessing illegal guns or ammunition, actually deters and reduces crime.

We also oppose B25-291 because of its proposed changes to the Incarceration Reduction Amendment Act. The Council's intent and purpose for IRAA is in its name: to reduce unnecessary incarceration. The Council's choices in how it wrote IRAA were intentional and evidence-based. Young people have undeveloped brains that make them more impulsive and less able to appreciate the consequences of their actions. Young people also mature and become dramatically less likely to reoffend as they age. Based on this evidence, the Council recognized that excessive incarceration of youthful offenders was unjust, cost-ineffective, and does not increase public safety – and, importantly, that this is true regardless of the nature of the original offense or the victim, community, or prosecutor's opinions on the sufficiency of the sentence. The Council intentionally required courts to reduce sentences if the IRAA public safety criteria are met, and it decided that 15 years was enough retribution for this group of offenders. The Council reasonably decided that there are certain populations who should be released solely because they safely can be after a certain period of time in prison.

For that reason, the Council explicitly said that courts “shall” reduce sentences for people under age 25 at the time of the offense who have served 15 years in prison and do not pose a present danger to the public. The proposed change to “may” weakens IRAA and makes the law less likely to achieve its purpose of reducing unnecessary incarceration of people who committed crimes as children and are not a public safety risk today. No one is made safer when we keep people in prison past the point at which they are a danger to others. Denying IRAA relief to those who meet its criteria stops them from coming home and becoming employees, breadwinners, taxpayers, parents, partners, and caretakers. This further destabilizes communities and families.

The bill's addition of requirements that the court consider the nature of the offense raise concerns that courts would then automatically deny applicants based solely on the facts of the crime, instead of performing the full IRAA inquiry required by law. The Council previously considered and rejected the addition of this criterion. When the Council created IRAA, it was aware that many of the applicants' crimes would be serious or even horrific. Despite this, the Council chose to prioritize rehabilitation and evidence about youthful offenders in the court's review. In passing IRAA, the Council decided that when it comes to resentencing youthful offenders, rehabilitation and public safety trump retribution. Allowing courts to deny applicants based solely on the nature of the offense would allow retribution to trump rehabilitation and public safety. This undermines IRAA's clear intent and purpose.

As written, IRAA is evidence-based and increases public safety. The proposed changes increase the likelihood of keeping rehabilitated people in prison unnecessarily, contrary to IRAA's name and goal. In fact, even with the “shall” in current law, judges can and do deny relief to those they find do not merit it. We have been presented with no evidence that IRAA is being abused by

courts or leading to increased crime. Those who have been granted IRAA relief are overwhelmingly leading productive lives. For these reasons, we ask the Council to stand by its original intent in passing IRAA and reject B25-291.

Thank you for considering our views on this legislation.

Molly Gill
Vice President of Policy