



**Written Statement of Molly Gill
Vice President of Policy, FAMM
Submitted to the Senate Judiciary Committee, New Mexico Legislature
In Support of SB 64
February 13, 2023**

Thank you to the Chair, Vice Chair, and members of the committee for considering this written statement from FAMM in support of SB 64. SB 64 would eliminate life without parole sentences as a punishment option for children and allow people convicted as children and serving life or other extreme sentences now to be considered for parole after they have spent 15, 20, or 25 years in prison, depending on their crime(s) of conviction. **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 64. 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 64 would codify what all parents know: children can do harmful, even terrible things – and they also usually outgrow it. SB 64 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 64 allows people sentenced as children to be *considered* for release after they have served 15, 20, or 25 years of their sentence, depending on their crime(s) of conviction. Release after these lengthy terms in prison 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 64’s 15-, 20-, and 25-year parole eligibility dates are reasonable and comparable to legal standards and to proposals other states are considering. 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.

¹ See Model Penal Code § 6.11A, p. 215,
https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/mpcs_proposed_final_draft.pdf.

The current New Mexico Supreme Court has written favorably² on a 15-year review for people convicted as children for committing serious crimes. Fifteen years is the standard in many other states, including West Virginia, Nevada, D.C., California, and Oregon. Currently, at least 15 other states around the country are considering bills that would allow adults or people convicted as children to seek resentencing or parole after serving 15, 20, or 25 years, depending on a number of factors.³ The time served requirements in SB 64 are longer than the Model Penal Code would endorse, but in line with national norms.

Some states have set parole eligibility at a point beyond 15 years, but many of these laws were passed eight or nine years ago. Since that time, studies have shown that the recidivism rate is only one percent⁴ for people who received parole from long sentences for crimes committed as minors. A life sentence may be deserved, but after 15, 20, or 25 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. In fact, this misuse of resources makes us less safe. What we spend keeping people locked up for crimes committed decades ago when they were different people should instead be spent on preventing crime and victimization happening today.

Making children wait longer than 15, 20, or 25 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,⁵ 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, 20, or 25 years can be denied parole under SB 64.

We hope you will pass SB 64. Thank you for considering our views.

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

³ FAMM, Pending Second Chances Legislation, Second Look 2023 Legislation, https://docs.google.com/spreadsheets/d/13a-FuNUNGaphzq-GsAd8E54veaZhU_nWkmh2gxy-iCs/edit#gid=570755306.

⁴ <https://digitalcommons.montclair.edu/cgi/viewcontent.cgi?article=1084&context=justice-studies-facpubs>

⁵ <https://famm.org/wp-content/uploads/Aging-out-of-crime-FINAL.pdf>