

Racial and Ethnic Impact Statement

2024 General Assembly Session

Bill number: SB 427; Petition for modification of a sentence; eligibility; procedures.

Review requested by: Chairman Surovell; Senate Committee for Courts of Justice

Date: January 26, 2024

JLARC Staff Assessment of Potential for Disproportionate Impact

SB 427 would establish a process for eligible individuals incarcerated for 15 or more years to petition the court for a modification of their sentence. Approximately 10 percent of inmates in state correctional facilities would be eligible to petition for sentence modification under SB 427.

JLARC staff estimate that SB 427 would have disproportionate racial impacts. Black inmates are 3.3 times more likely to be eligible to petition for sentence modification relative to their share of Virginia's general population. Black inmates are also 1.24 times more likely to be eligible to petition relative to their share of the total incarcerated population.

An explanation of the JLARC staff review is included on the pages that follow.

Bill summary

SB 427 would establish a process for incarcerated individuals to petition for the suspension or reduction of their sentence(s) if they meet certain criteria. Individuals must have: (1) served at least 15 years of their sentence; (2) not been convicted of aggravated murder, first degree murder, or had a second or subsequent conviction of second degree murder; and (3) not filed a similar petition in the past three years, had a sentence modified in the past five years pursuant to a similar petition, or filed more than two petitions for modification of sentence. An inmate petitioning for sentence modification would have a hearing before the judge who presided over their original case, where existing and new evidence would be considered. Upon good cause shown by the petitioner, the court could (1) suspend the unserved portion of any sentence or run the unserved portion concurrently with another sentence; (2) place the person on probation for such time as the court shall determine; or (3) otherwise modify the sentence imposed, except that no modification could exceed the original term of confinement imposed by the court.

Impact on aggregate criminal justice outcomes

SB 427 would provide a new option for eligible inmates serving long sentences to petition for a reduction in their sentence. Department of Corrections research staff estimate that 2,734 inmates (as of December 31, 2023) would be eligible to petition under SB 427, slightly more than 10 percent of the total state-responsible inmate population. Approximately three-fourths of these inmates are already or will become eligible for recommendation for discretionary parole (§53.1-151) or to petition for geriatric release (§53.1-40.01). However, the remaining nearly one-fourth (23 percent) of inmates who would be eligible to petition for sentence modification under SB 427 are not currently and will not become eligible for parole or geriatric release.

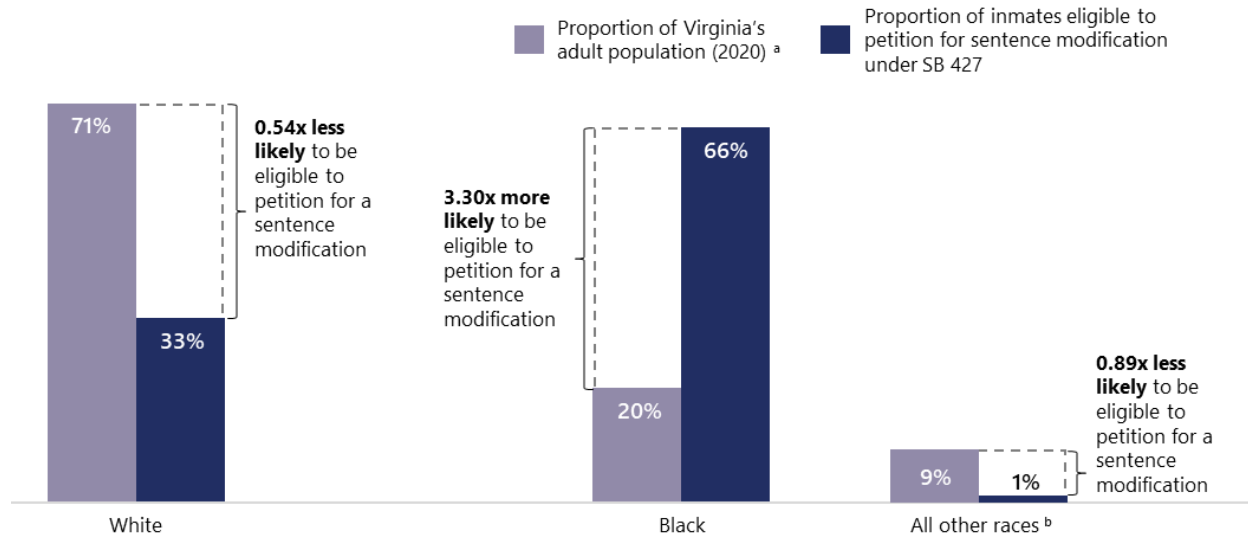
Evidence of disproportionate impacts on racial or ethnic subgroups

To estimate whether there would be disproportionate racial impacts if SB 427 were enacted, JLARC staff compared (1) the racial composition of inmates who would be eligible to petition for modified sentences under SB 427 to the racial composition of Virginia's population age 18 and older; and (2) the racial composition of inmates who would be impacted by SB 427 to the racial composition of all inmates. Under both analyses, Black inmates would be disproportionately affected by SB 427.

SB 427 would disproportionately impact Black inmates because a higher proportion of eligible inmates are Black relative to the proportion of Black persons in Virginia

Inmates eligible to petition for sentence modification under SB 427 are 3.3 times (230 percent) more likely to be Black compared to their share of the adult population of Virginia. Approximately 66 percent of inmates who would be eligible to petition under SB 427 are Black, while approximately 20 percent of Virginia adults are Black (Figure 1). Conversely, 33 percent of inmates eligible to petition under SB 427 are white, compared to 71 percent of Virginia adults, meaning that white inmates are 0.54 times (54 percent) less likely to be eligible to petition for sentence modification relative to their share of Virginia's adult population.

FIGURE 1
Black inmates are 3.3 times more likely to be eligible to petition for sentence modification under SB 427 compared to Virginia’s population 18 years and older



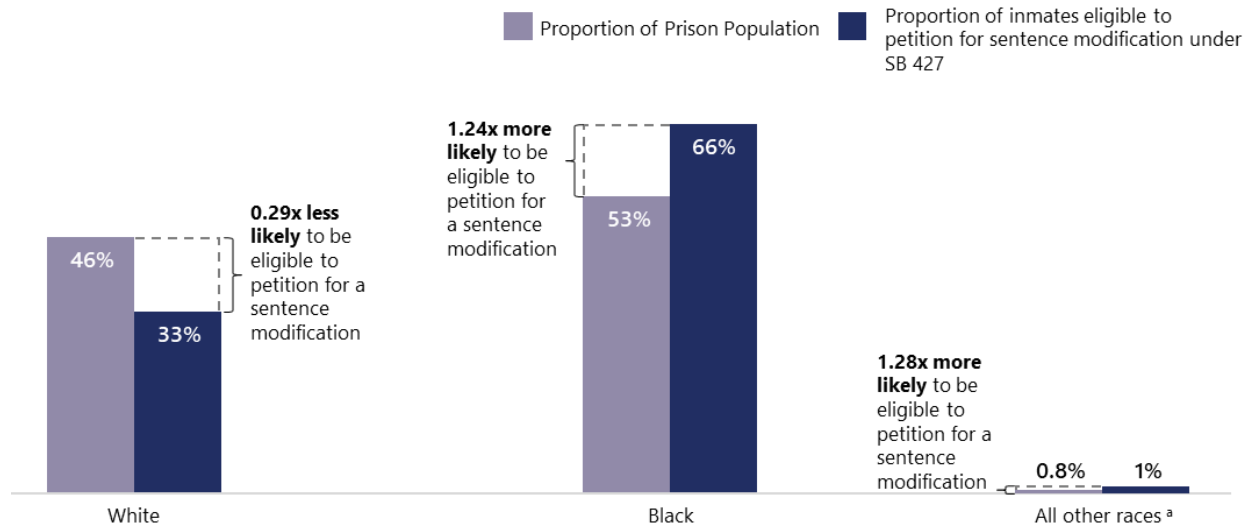
SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2023.

NOTE: ^a Population data from Virginia 2020 Census estimates of adult population over 18 years of age. ^b Accounts for the combination of American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race SR inmates in DOC facilities.

SB 427 would disproportionately impact Black inmates because a higher proportion of eligible inmates are Black relative to their proportion in Virginia’s prison system

Inmates eligible to petition for sentence modification under SB 427 are 1.24 times (24 percent) more likely to be Black compared to their share of the state-responsible inmate population (Figure 2). Approximately 66 percent of individuals who would be eligible under SB 427 are Black, while approximately 53 percent of inmates are Black. White inmates are 0.29 times (29 percent) less likely to be eligible under SB 427 compared to their share of the inmate population, because they represent 33 percent of inmates eligible to petition and 46 percent of Virginia’s inmate population.

FIGURE 2
Black inmates are 1.24 times more likely to be eligible under SB 427 compared to the total incarcerated population



SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2023.

NOTE: ^a Accounts for the combination of American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race SR inmates in DOC facilities.

Patrons: Senator Deeds and Senator Carroll Foy

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