

Racial and Ethnic Impact Statement

2026 General Assembly Session

Updated

Bill number: HB 853 (Introduced); Petition for modification of a sentence; eligibility and procedures

Review requested by: Chairman Hope; House Courts of Justice Committee

Date: February 9, 2026

JLARC Staff Assessment of Potential for Disproportionate Impact

HB 853 would establish a process for individuals to petition for modification of their sentence if incarcerated for at least 15, 20, or 25 years, depending on their felony offense. Approximately 13 percent of inmates in state correctional facilities would be eligible to petition for sentence modification under HB 853 as of December 31, 2025.

JLARC staff estimate that HB 853 would have disproportionate racial impacts. Black inmates are 3.3 times more likely to be eligible to petition for sentence modification relative to the proportion of Black persons in Virginia's adult population. Black inmates are also 1.3 times more likely to be eligible to petition relative to their proportion of Virginia's total incarcerated population.

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

Bill summary

HB 853 would establish a process for inmates to petition for the suspension or reduction of their sentence(s) if they meet one of the following criteria. Those who could petition for sentence modification include:

- (1) Inmates who have been convicted of certain felonies (Section A offenses), including a Class 1 felony, aggravated murder, sexual assault of a minor, human trafficking, terrorism, producing or filming child pornography, lynching, or treason, and who have served at least 25 years of their sentence.
- (2) Inmates who have been convicted of certain felonies (Section B offenses), including a first and single offense of second-degree murder or sexual assault of an adult, and have served at least 20 years of their sentence.
- (3) Inmates with a felony conviction that is not in one of the categories above (Section C offenses) and who have served at least 15 years of their sentence.

The petition would be filed with the circuit court that entered the original judgment or order. Upon good cause shown by the petitioner, the court could (1) suspend the unserved portion of any sentence or allow the unserved portion to run concurrently with another sentence; (2) place the person on probation for a period determined by the court; or (3) otherwise modify the sentence, except that no modification could exceed the court's original confinement length.

Impact on aggregate criminal justice outcomes

HB 853 would provide a new option for eligible inmates serving long sentences to petition for a reduction in their sentence. Virginia Department of Corrections (VADOC) research staff estimate that 3,468 inmates (as of December 31, 2025) would be eligible to petition under one of the three criteria in HB 853, approximately 13 percent of the total state-responsible inmate population. (Some of these inmates may also be eligible to be considered for discretionary parole or geriatric release under separate existing processes.) Out of the total number of eligible inmates, an estimated 848 (24 percent) have a Section A offense and have served 25 or more years of their sentence, 1,107 (32 percent) have a Section B offense and have served 20 or more years, and 1,513 (44 percent) have a Section C offense and have served 15 or more years. VADOC staff estimate that an additional 1,535 inmates would become eligible under one of the three criteria between January 1, 2026, and June 30, 2031, should the bill become law.

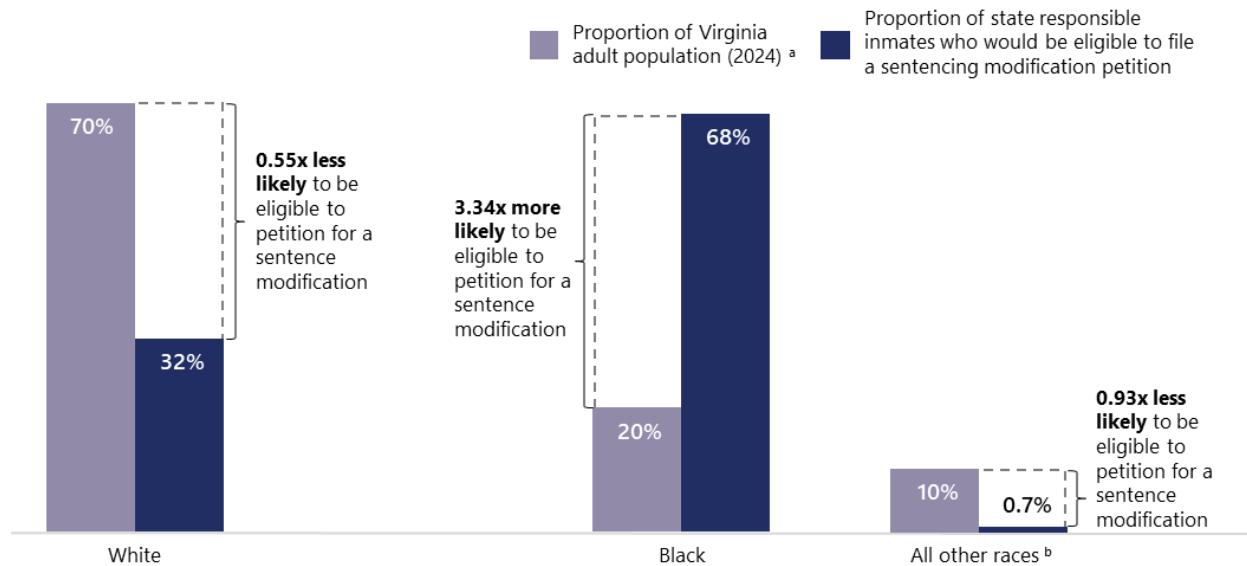
Evidence of disproportionate impacts on racial or ethnic subgroups

To estimate whether there would be disproportionate racial impacts if HB 853 were enacted, JLARC staff compared the racial composition of inmates who would be eligible under the three criteria to petition for modified sentences under HB 853 to (1) the racial composition of Virginia's adult population and (2) to the racial composition of all inmates. Under both analyses, Black inmates would be disproportionately affected.

HB 853 would disproportionately impact Black inmates because a higher proportion of eligible inmates are Black relative to the proportion of Black persons in Virginia

Overall, inmates eligible to petition for sentence modification under HB 853 are 3.3 times more likely to be Black relative to the proportion of Black adults living in Virginia. Black inmates account for approximately 68 percent of inmates who would be eligible to petition under HB 853, but only approximately 20 percent of Virginia adults are Black (Figure 1). White inmates are less likely to be eligible to petition for sentence modification relative to their proportion of Virginia's population, as 32 percent of inmates who would be eligible to petition under HB 853 are white, and 70 percent of Virginia adults are white.

FIGURE 1
Black inmates are 3.3 times more likely to be eligible to petition for sentence modification under HB 853 compared with the proportion of Black adults in Virginia



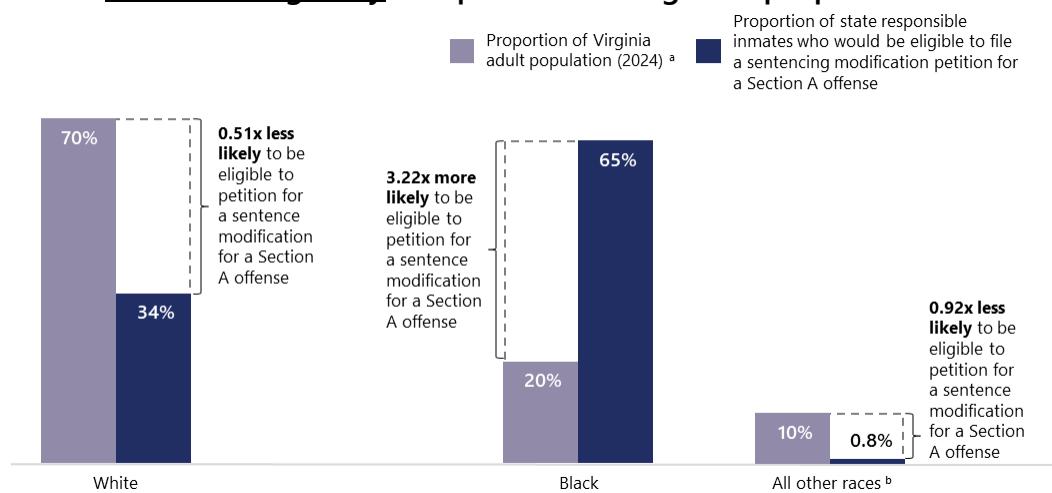
SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2025.

NOTE: ^a Population data from Virginia 2024 Census estimates of adult population. ^b Accounts for state-responsible inmates in DOC facilities identified as American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race.

Similar levels of disproportionality hold for each of the three proposed eligibility criteria under HB 835 compared to Virginia's adult population (Figures 2-1 to 2-3). For example, inmates with a Section A offense and 25 or more years served are 3.2 times more likely to be Black relative to their proportion of Virginia's adult population. Black inmates account for approximately 65 percent of inmates who would be eligible for sentence modification with a Section A offense and 25 or more years served, but approximately 20 percent of Virginia adults are Black. White inmates with a Section A offense and 25 or more years served are 0.5 times less likely to be eligible to petition relative to their proportion of Virginia's population, as 34 percent of inmates in that category are white, and 70 percent of Virginia's adult population is white.

FIGURE 2-1

Black inmates are more likely to be eligible to petition for sentence modification under Section A eligibility compared with Virginia's proportion of Black adults

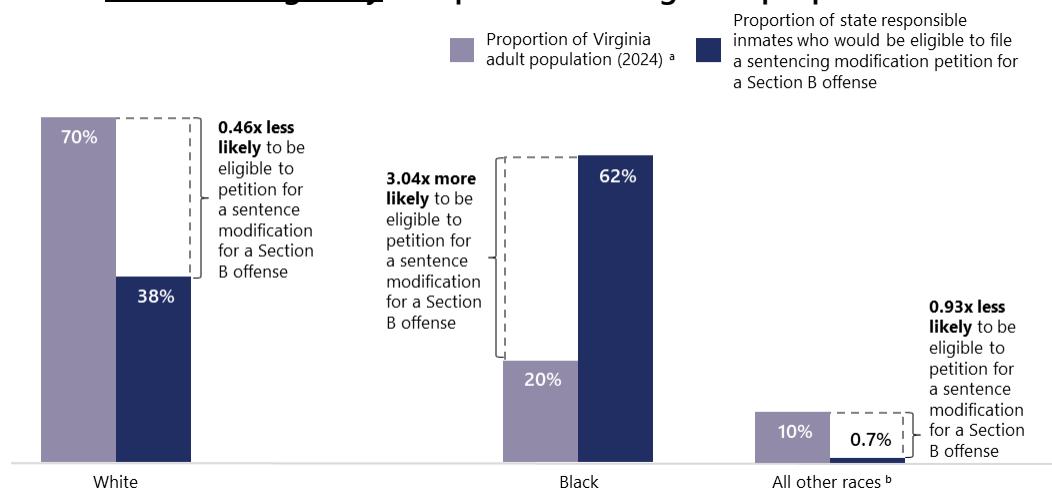


SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2025.

NOTE: ^a Population data from Virginia 2024 Census estimates of adult population. ^b Accounts for state-responsible inmates in DOC facilities identified as American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race.

FIGURE 2-2

Black inmates are more likely to be eligible to petition for sentence modification under Section B eligibility compared with Virginia's proportion of Black adults

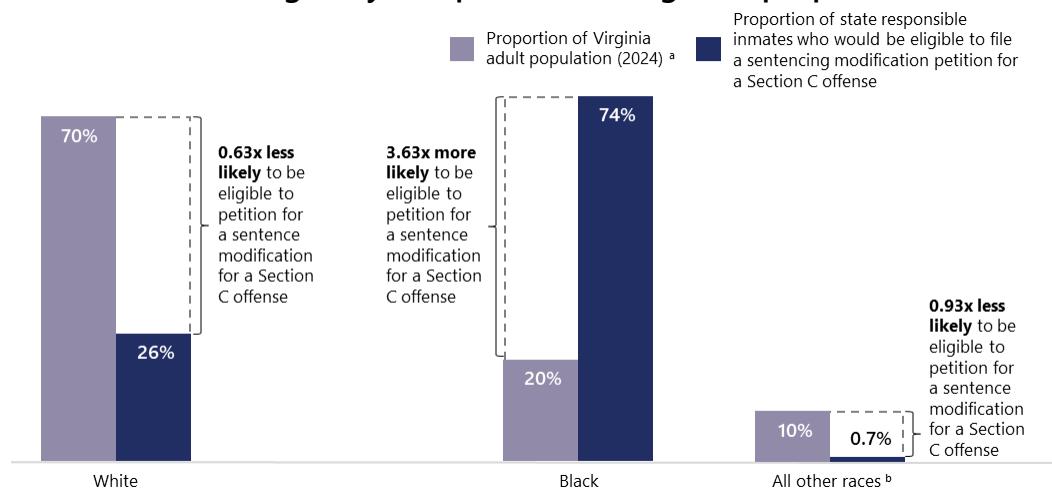


SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2025.

NOTE: ^a Population data from Virginia 2024 Census estimates of adult population. ^b Accounts for state-responsible inmates in DOC facilities identified as American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race.

FIGURE 2-3

Black inmates are more likely to be eligible to petition for sentence modification under Section C eligibility compared with Virginia's proportion of Black adults



SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2025.

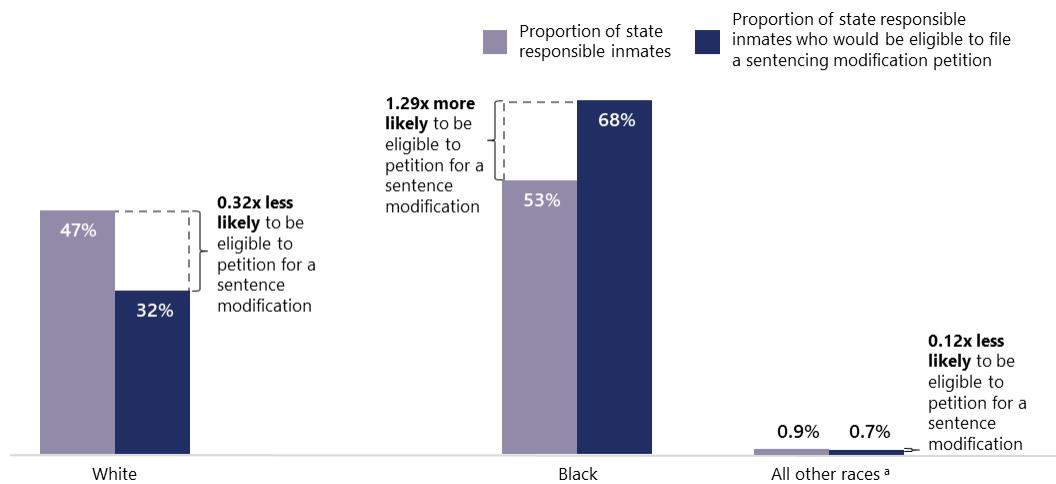
NOTE: ^a Population data from Virginia 2024 Census estimates of adult population. ^b Accounts for state-responsible inmates in DOC facilities identified as American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race.

HB 853 would disproportionately impact Black inmates because a higher proportion of eligible inmates are Black relative to their proportion in Virginia's prison system

Overall, inmates eligible to petition for sentence modification under HB 853 are 1.3 times more likely to be Black relative to their proportion of the state-responsible inmate population (Figure 3). Black inmates account for approximately 68 percent of inmates who would be eligible to petition under HB 853, but only approximately 53 percent of inmates are Black. White inmates are 0.3 times less likely to be eligible to petition for sentence modification relative to their proportion of state-responsible inmates under HB 853, as 32 percent of inmates who would be eligible to petition are white, and 47 percent of Virginia's inmate population is white.

FIGURE 3

Black inmates are 1.29 times more likely to be eligible compared with the total incarcerated population



SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2025.

NOTE: ^a Accounts for state-responsible inmates in DOC facilities identified as American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race.

SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2025.

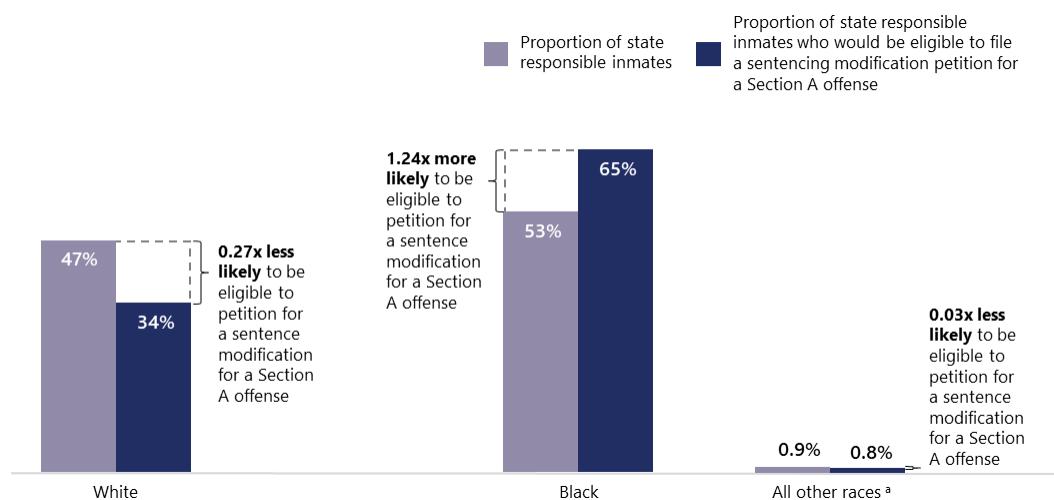
NOTE: ^a Population data from Virginia 2024 Census estimates of adult population. ^b Accounts for state-responsible inmates in DOC facilities identified as American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race.

Similar levels of disproportionality hold for each of the three proposed eligibility criteria under HB 853 compared to the state-responsible inmate population (Figures 4-1 to 4-3). For example, inmates with a Section A offense and 25 or more years served are 1.2 times more likely to be Black relative to their proportion of the state-responsible inmate population. Black inmates account for approximately 65 percent of inmates eligible for

sentence modification with a Section A offense and 25 or more years served, but 53 percent of inmates are Black. White inmates with a Section A offense and 25 or more years served are 0.3 times less likely to be eligible to petition relative to their proportion of Virginia's population, as 34 percent of inmates in that category are white, and 47 percent of state-responsible inmates are white.

FIGURE 4-1

Black inmates are more likely to be eligible under Section A eligibility compared with the total incarcerated population

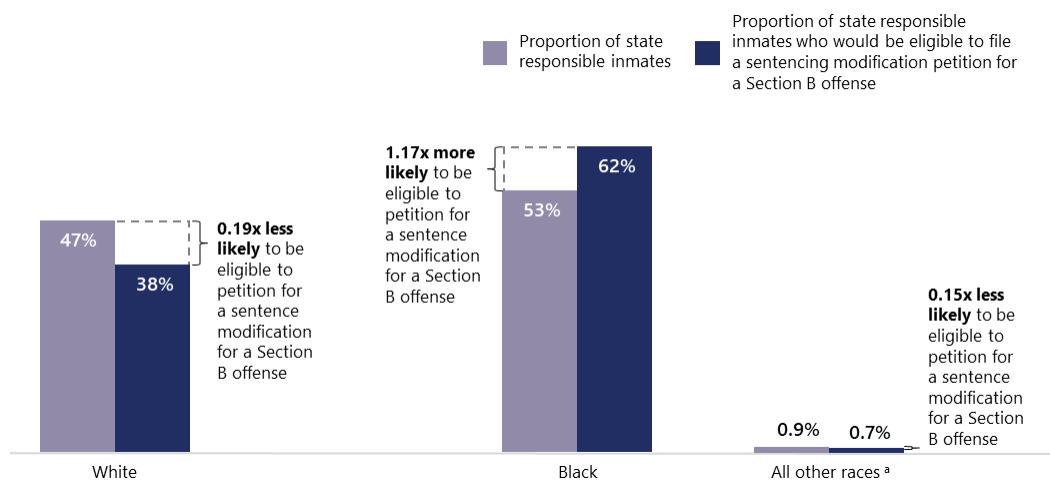


SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2025.

NOTE: ^a Accounts for state-responsible inmates in DOC facilities identified as American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race.

FIGURE 4-2

Black inmates are more likely to be eligible under Section B eligibility compared with the total incarcerated population

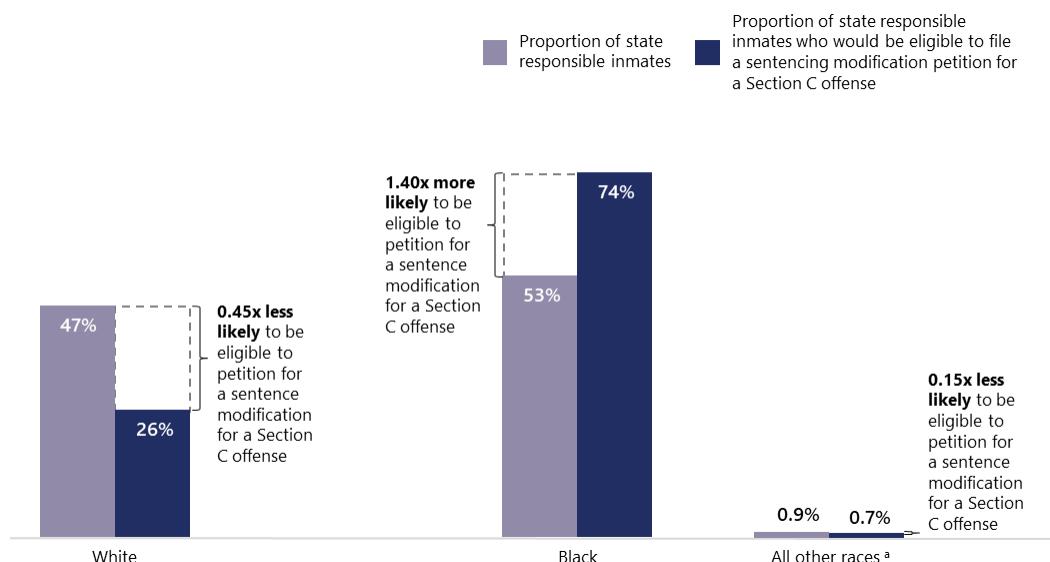


SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2025.

NOTE: ^a Accounts for state-responsible inmates in DOC facilities identified as American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race.

FIGURE 4-3

Black inmates are more likely to be eligible under Section C eligibility compared with the total incarcerated population



SOURCE: JLARC analysis of VADOC inmate data as of December 31, 2025.

NOTE: ^a Accounts for state-responsible inmates in DOC facilities identified as American Indian or Alaskan Native, Asian or Pacific Islander, or unknown race.

Patron: Delegate Cousins

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