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SENATE BILL NO. 142

Offered January 8, 2014

Prefiled December 30, 2013

A *BILL* to amend the Code of Virginia by adding a section numbered 19.2-305.5, relating to sentence modification procedure for certain juvenile offenders.

Patron—Marsden

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 19.2-305.5 as follows:****§ 19.2-305.5 Sentence modification for certain juvenile offenders.**

A person who was convicted of a nonhomicide offense or multiple nonhomicide offenses arising out of the same act or transaction committed when the person was a juvenile for which the court imposes a life sentence or an consecutive active terms of confinement that would be completed after the offender's 60th birthday may, after his 35th birthday or after serving 20 years of his sentence, whichever occurs later, petition the Supreme Court for a modification of the sentence. Upon receipt of the petition, the Chief Justice of the Supreme Court shall, if the petition is in order, appoint a four-judge panel of circuit court judges or retired circuit court judges subject to recall under § 17.1-106 to conduct a hearing. A copy of the petition shall be served upon the attorney for the Commonwealth in the jurisdiction where the petitioner was convicted, who shall have the right to file a response within 30 days of receiving service, which response shall be served on the petitioner. The petitioner shall have the right to file a reply to the attorney for the Commonwealth's response within 15 days after receiving service of such response. A victim as defined in § 19.2-11.01 shall be notified of the filing of the petition and of the time and place of any hearing by the attorney for the Commonwealth if the victim has submitted a written request for notification and current contact information to the attorney for the Commonwealth. A victim shall be permitted to submit to the panel evidence concerning the impact that modification of the sentence would have on the victim. A probation officer of the court shall submit a written evaluation of the petitioner to the panel that shall include petitioner's institutional record; course of conduct; and academic, vocational, and emotional development while incarcerated. In reviewing the petition, the panel shall evaluate whether changed circumstances, including a review of the factors discussed in the written evaluation, warrant a reduction in sentence. In the panel's discretion, such evaluation may include a hearing, personal appearance of the petitioner, or both. Within 120 days after the filing of the petition, the panel shall issue an order determining whether and to what extent to reduce or suspend the petitioner's sentence, including to time served. Any order to modify the sentence shall require three affirmative votes of the judges serving on the panel. The panel may place the petitioner on probation and set terms and conditions of probation but shall have no authority to increase a petitioner's sentence. Such order shall not be subject to appeal or otherwise reviewable by any party, except to review any noncompliance with the provisions of this section. After becoming eligible to file a petition, a person may file a petition under this section no more often than once every five years. The right of petition established by this section shall extend to all persons who are incarcerated with a sentence of more than 25 years, on or after July 1, 2014, for a nonhomicide offense committed while a juvenile.

INTRODUCED

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