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SENATE BILL NO. 223

Offered January 13, 2016

Prefiled January 5, 2016

A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 18 of Title 19.2 a section numbered 19.2-310.1:1, relating to new sentencing hearing; abolition of parole.

Patrons—McEachin, Edwards, Locke and Saslaw; Delegates: Bagby, Boysko, Carr, Heretick, Herring, Hester, Hope, Kory, Krizek, Lindsey, McClellan, McQuinn, Plum, Simon, Spruill and Tyler

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 in Article 1 of Chapter 18 of Title 19.2 a section numbered 19.2-310.1:1 as follows:

§ 19.2-310.1:1. Sentencing hearing for person sentenced for a noncapital felony committed on or after January 1, 1995, and prior to June 9, 2000.

Notwithstanding any other provision of law, any person who was sentenced by a jury prior to June 9, 2000, for a noncapital felony offense committed on or after January 1, 1995, where the jury was not instructed on the abolition of parole and who is presently incarcerated for such offense shall be entitled to a new sentencing proceeding. Such person shall file a petition for a new sentencing proceeding with the Court of Appeals on a form provided by the Supreme Court. The Court of Appeals shall direct the circuit court in which the order of conviction was originally entered to empanel a new jury for the purposes of conducting the new sentencing proceeding and shall notify the attorney for the Commonwealth for the county or city in which the circuit court is located. Such sentencing proceeding shall be conducted in accordance with the provisions of this article. Upon agreement of the attorney for the Commonwealth and the person who files a petition for a new sentencing hearing, such person may waive his right to a new sentencing proceeding and allow the court to fix punishment. No sentence imposed pursuant to this section may exceed the sentence originally imposed upon the person.

INTRODUCED

SB223