

Department of Planning and Budget 2017 Fiscal Impact Statement

1. Bill Number: SB 825

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Wexton

3. Committee: Reported from Committee

4. Title: New Sentencing Hearing

5. Summary:

The 1994 General Assembly Special Session II abolished parole for offenses committed on or after January 1, 1995. On June 9, 2000, the Virginia Supreme Court ruled that the jury in a noncapital criminal case should be instructed that parole had been abolished in Virginia (*Fishback v. Commonwealth*, 260 Va. 104).

The proposed legislation, as amended by the committee, would provide the opportunity for a new resentencing hearing to any person still incarcerated who was sentenced by a jury prior to June 9, 2000, for a nonviolent offense committed on or after January 1, 1995, and the jury was not instructed on the abolition of parole. Any inmate who satisfied that criteria could petition the Virginia Court of Appeals for a new resentencing hearing. The Court of Appeals, upon receipt of the petition, would direct the circuit court in which the offender was convicted to empanel a new jury for the resentencing proceeding. If the attorney for the Commonwealth of the jurisdiction agreed, the offender could waive his right to a jury resentencing and allow the court to fix punishment. In either case, the new sentence could not exceed the original sentence.

6. Budget Amendment Necessary: No. See Item 8.

7. Fiscal Impact Estimates: Indeterminate. See Item 8.

8. Fiscal Implications:

According to data provided by the Department of Corrections (DOC), there are currently 10 inmates incarcerated in state prisons who were convicted by a jury before January 9, 2000, for a nonviolent felony offense committed on or after January 1, 1995. It is not known how many of those inmates had a jury that was not instructed that parole had been abolished in Virginia. The only way to determine that number would be to examine the trial transcript for each offender. Until that number is known, the potential fiscal impact of the legislation cannot be determined.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Virginia Court of Appeals
Office of the Executive Secretary of the Supreme Court
Various circuit courts
Various attorneys for the Commonwealth
Indigent Defense Commission
Compensation Board
Various local and regional jails

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 1/25/2017