



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2172

Amendment in the Nature of a Substitute

(Patron Prior to Substitute – Miyares)

LD#: 19105421

Date: 1/28/2019

Topic: Conditional release of geriatric prisoners

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
None (\$0) *
- **Juvenile Detention Facilities:**
None (\$0) *

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 53.1-40.01, relating to conditional release of geriatric inmates. Currently, an inmate serving a sentence for a felony, other than a Class 1 felony, (i) who has reached the age of sixty-five or older having served at least five years of the sentence or (ii) who has reached the age of sixty or older having served at least ten years of the sentence may petition the Parole Board for conditional release.

Under the proposal, for crimes committed on or after July 1, 2019, offenders serving prison time for first-degree murder (§ 18.2-32) or a sexually violent offense as defined in § 37.2-900 also would be ineligible for geriatric release consideration. The proposal would add the following offenses as disqualifiers for geriatric release:

- First-degree murder (§ 18.2-32);
- Abduction with intent to defile (§ 18.2-48 (ii));
- Abduction of a minor under the age of 16 for the purposes of prostitution (§ 18.2-48 (iii));
- Rape (§ 18.2-61);
- Carnal knowledge of a minor 13 to 15 years of age (§ 18.2-63);
- Carnal knowledge of a minor 15 to 17 years of age by a person providing services to juveniles in custody or under the purview of the court (§ 18.2-64.1);
- Forcible sodomy (§ 18.2-67.1);
- Object sexual penetration (§ 18.2-67.2); and
- Aggravated sexual battery (§ 18.2-67.3).

Analysis:

According to the Virginia Department of Corrections (DOC), a total of 1,673 inmates were considered for geriatric release during FY2016-FY2018. Of those considered, 89 inmates (5.3%) were granted release under the geriatric provision. Based on updated data provided by DOC on January 25, 2019, 51 inmates convicted of one of the proposed disqualifying offenses were granted geriatric release during the three-year period.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal would reduce the number of inmates eligible for geriatric release under § 53.1-40.01. However, the proposal applies to offenses committed on or after July 1, 2019, and would not affect the eligibility of current inmates. To become eligible for geriatric release, an inmate must serve a minimum of 5 or 10 years, depending on his or her age. Given the prospective (rather than retroactive) application of the proposal, felony case processing time in circuit courts (which averages about 11 months), and the Parole Board's low grant rate for geriatric release, designating certain future inmates as ineligible for geriatric release is unlikely to have an impact on state-responsible (prison) bed space needs during the six-year window specified by § 30-19.1:4 for legislative impact statements.

Local adult correctional facilities. Because the proposal applies to state inmates, it is not expected to have an impact on local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to have an impact on state or local community corrections resources in Virginia.

Virginia's sentencing guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the proposal is not expected to impact direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to impact the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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