

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB793 ER

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

2. Patron: McClellan

3. Committee: Passed both houses

4. Title: Parole; exception to limitation on the application of parole statutes.

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 bill applies this provision to any person who was sentenced by a jury prior to June 9, 2000, for any felony offense other than a (i) Class 1 felony or (ii) any of the following felony offenses where the victim was a minor: (a) rape; (b) forcible sodomy; (c) object sexual penetration; (d) aggravated sexual battery; (e) an attempt to commit a violation of clause (a), (b), (c), or (d); or (f) carnal knowledge of certain minors or of an inmate, parolee, probationer, detainee, or pretrial or post-trial offender, when the offense was committed on or after January 1, 1995, and when the offender remained incarcerated for such offense on July 1, 2020. Other offenders would be eligible for parole.

The bill requires the Virginia Parole Board (VPB) to establish procedures consistent with this provision, and requires that anyone who meets the eligibility requirements as of July 1, 2020, must be scheduled for a parole interview no later than July 1, 2021, allowing for extension of time for reasonable cause.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Final. See Item 8 below.

8. Fiscal Implications: According to the Sentencing Commission, as of November 2019, there were approximately 311 offenders who were sentenced by a jury prior to June 9, 2000. According to the Department of Corrections (DOC), none of these offenders are serving sentences for capital murder, which is a Class 1 felony. Currently, the DOC does not have access to data that would identify whether the victims of those offenders who are serving sentences for the felony offenses enumerated in the bill were minors. Therefore, the number of offenders who might be eligible for parole under the provisions of this bill cannot be determined at this time.

The VPB reports that all of the affected offenders have already been identified eligible for parole by the VPB and that this bill is not expected to have a fiscal impact on agency operations.

9. Specific Agency or Political Subdivisions Affected: Virginia Parole Board; Department of Corrections.

10. Technical Amendment Necessary: No

11. Other Comments: None