

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB793 H1

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

2. Patron: McClellan

3. Committee: Courts of Justice

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 substitute 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 also requires that, for any person entitled to the consideration of parole, the Parole Board (VPB) must provide notice by first-class mail or by electronic means to the attorney for the Commonwealth (i) of the jurisdiction in which the offense occurred and (ii) of the jurisdiction in which the person resided prior to conviction that such person is being considered for parole at least 60 days prior to any review and parole decision on such person. The bill allows the attorney for the Commonwealth to submit to the VPB any information that will assist the VPB in its determination that such person's release on parole will not be incompatible with the interests of society or of such person.

The VPB is required to establish procedures consistent with the provisions of this bill.

6. Budget Amendment Necessary: No

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

8. Fiscal Implications: According to the Sentencing Commission, as of November 2019, there are 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 already receives information from Commonwealth Attorneys regarding eligible offenders' suitability for release as part of its review. The VPB reports that the 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