

VIRGINIA ACTS OF ASSEMBLY -- 2020 SPECIAL SESSION I

CHAPTER 33

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 2 of Title 53.1 a section numbered 53.1-40.02, relating to conditional release of terminally ill prisoners.

[S 5018]

Approved October 28, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 53.1 a section numbered 53.1-40.02 as follows:

§ 53.1-40.02. Conditional release of terminally ill prisoners.

A. As used in this section, "terminally ill" means having a chronic or progressive medical condition caused by injury, disease, or illness where the medical prognosis is the person's death within 12 months.

B. Any person serving a sentence imposed upon a conviction for a felony offense, except as provided in subsection C, who is terminally ill may petition the Parole Board for conditional release.

C. A person who is terminally ill and is serving a sentence imposed upon a conviction for one of the following offenses shall not be eligible to petition the Parole Board for conditional release:

- 1. A Class 1 felony;*
 - 2. Any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or 18.2-33;*
 - 3. Any violation of § 18.2-40 or 18.2-45;*
 - 4. Any violation of § 18.2-46.5, subsection A or B of § 18.2-46.6, or § 18.2-46.7;*
 - 5. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2, except for a violation of § 18.2-49.1;*
 - 6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, any violation of § 18.2-51.7, 18.2-54.1, or 18.2-54.2, or any felony violation of § 18.2-57.2;*
 - 7. Any felony violation of § 18.2-60.3;*
 - 8. Any felony violation of § 16.1-253.2 or 18.2-60.4;*
 - 9. Robbery under § 18.2-58 or carjacking under § 18.2-58.1;*
 - 10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, except, when not committed against a minor, a violation of subdivision A 5 of § 18.2-67.3, § 18.2-67.4:1, subsection B of § 18.2-67.5, or § 18.2-67.5:1;*
 - 11. Any violation of § 18.2-90 or 18.2-93;*
 - 12. Any violation of § 18.2-289 or subsection A of § 18.2-300;*
 - 13. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2 involving a minor victim;*
 - 14. Any felony offense in Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2 involving a minor victim, except for a violation of § 18.2-362 or 18.2-370.5 or subsection B of § 18.2-371.1;*
 - 15. Any felony offense in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 involving a minor victim, except for a violation of subsection A of § 18.2-374.1:1;*
 - 16. Any violation of § 18.2-481, 40.1-100.2, or 40.1-103; or*
 - 17. A second or subsequent felony violation of the following offenses when such offenses were not part of a common act, transaction, or scheme and such person has been at liberty as defined in § 53.1-151 between each conviction:*
 - a. Voluntary or involuntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2 or any crime punishable as such;*
 - b. Any violation of § 18.2-41 or 18.2-42.1;*
 - c. Any violation of subsection C of § 18.2-46.6;*
 - d. Any violation when done unlawfully but not maliciously of § 18.2-51 or 18.2-51.1;*
 - e. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79;*
 - f. Any violation of § 18.2-89 with the intent to commit any larceny or § 18.2-92;*
 - g. Any violation of subsection A of § 18.2-374.1:1;*
 - h. Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; or*
 - i. Any violation of subdivision E 2 of § 40.1-29.*
- D. The Parole Board shall promulgate regulations to implement the provisions of this section.*