

20201268D

## SENATE BILL NO. 5018

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations  
on September 25, 2020)

(Patron Prior to Substitute—Senator Bell)

A BILL to amend and reenact § 53.1-40.01 of the Code of Virginia, relating to conditional release of geriatric or terminally ill prisoners.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 53.1-40.01 of the Code of Virginia is amended and reenacted as follows:**

**§ 53.1-40.01. Conditional release of geriatric or 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, other than a Class 1 felony, (i) who has reached the age of sixty-five is 65 years of age or older and who has served at least five years of the sentence imposed or; (ii) who has reached the age of sixty is 60 years of age or older and who has served at least ten 10 years of the sentence imposed may petition; or (iii) except as provided in subsection C, who is terminally ill may petition the Parole Board for conditional release. The Parole Board shall promulgate regulations to implement the provisions of this section.

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

1. Solicitation to commit murder under § 18.2-29 or any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or 18.2-33;

2. Any violation of § 18.2-40 or 18.2-45;

3. Any violation of subsection A of § 18.2-46.5, of subsection D of § 18.2-46.5 if the death of any person results from providing any material support, or of subsection A of § 18.2-46.6;

4. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2;

5. 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 § 18.2-51.6 or 18.2-51.7, or any felony violation of § 18.2-57.2;

6. Any felony violation of § 18.2-60.3;

7. Any felony violation of § 16.1-253.2 or 18.2-60.4;

8. Robbery under § 18.2-58 or carjacking under § 18.2-58.1;

9. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

10. Any violation of § 18.2-90, 18.2-91, or 18.2-93;

11. Any violation of § 18.2-289 or subsection A of § 18.2-300;

12. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2;

13. Any felony offense in Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2, except for a violation of § 18.2-362 or subsection B of § 18.2-371.1;

14. Any felony offense in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, except for a violation of subsection A of § 18.2-374.1:1;

15. Any violation of subsection F of § 3.2-6570, any felony violation of § 18.2-128, or any violation of § 18.2-481, 37.2-917, 37.2-918, 40.1-100.2, or 40.1-103; or

16. A second or subsequent violation of the following offenses, in any combination, 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. Any felony violation of § 3.2-6571;

b. 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;

c. Any violation of § 18.2-41 or felony violation of § 18.2-42.1;

d. Any violation of subsection B, C, or D of § 18.2-46.5 or § 18.2-46.7;

e. Any violation of § 18.2-51 when done unlawfully but not maliciously, § 18.2-51.1 when done unlawfully but not maliciously, or § 18.2-54.1 or 18.2-54.2;

f. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79;

g. Any violation of § 18.2-89 or 18.2-92;

h. Any violation of subsection A of § 18.2-374.1:1;

i. Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; or

j. Any violation of subdivision E 2 of § 40.1-29.