20105022D

HOUSE BILL NO. 915

Offered January 8, 2020
Prefiled January 7, 2020

A BILL to amend and reenact §§ 19.2-297.1 and 53.1-40.01 of the Code of Virginia, relating to conditional release of geriatric prisoners.

Patron—Sickles

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-297.1 and 53.1-40.01 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-297.1. Sentence of person twice previously convicted of certain violent felonies.

A. Any person convicted of two or more separate acts of violence when such offenses were not part of a common act, transaction or scheme, and who has been at liberty as defined in § 53.1-151 between each conviction, shall, upon conviction of a third or subsequent act of violence, be sentenced to life imprisonment and shall not have all or any portion of the sentence suspended, provided it is admitted, or found by the jury or judge before whom he is tried, that he has been previously convicted of two or more such acts of violence. For the purposes of this section, "act of violence" means (i) any one of the following violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2:

a. First and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.);

b. Mob-related felonies under Article 2 (§ 18.2-38 et seq.);

c. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.);

d. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.);

e. Robbery under § 18.2-58 and carjacking under § 18.2-58.1;

f. Except as otherwise provided in § 18.2-67.5:2 or § 18.2-67.5:3, criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.); or

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

(ii) conspiracy to commit any of the violations enumerated in clause (i) of this section; and (iii) violations as a principal in the second degree or accessory before the fact of the provisions enumerated in clause (i) of this section.

B. Prior convictions shall include convictions under the laws of any state or of the United States for any offense substantially similar to those listed under "act of violence" if such offense would be a felony if committed in the Commonwealth.

The Commonwealth shall notify the defendant in writing, at least thirty days prior to trial, of its intention to seek punishment pursuant to this section.

C. Any person sentenced to life imprisonment pursuant to this section shall not be eligible for parole and shall not be eligible for any good conduct allowance or any earned sentence credits under Chapter 6 (§ 53.1-186 et seq.) of Title 53.1. ~~However, any person subject to the provisions of this section, other than a person who was sentenced under subsection A of § 18.2-67.5:3 for criminal sexual assault convictions specified in subdivision f, (i) who has reached the age of sixty-five or older and who has served at least five years of the sentence imposed or (ii) who has reached the age of sixty or older and who has served at least ten years of the sentence imposed may petition the Parole Board for conditional release.~~ The Parole Board shall promulgate regulations to implement the provisions of this subsection.

§ 53.1-40.01. Conditional release of geriatric prisoners.

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, *(iii) who is 55 years of age or older and who has served at least 15 years of the sentence imposed, or (iv) who is 50 years of age or older and who has served at least 20 years of the sentence imposed* may petition the Parole Board for conditional release. The Parole Board shall promulgate regulations to implement the provisions of this section.

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