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**HOUSE BILL NO. 308**

Offered January 10, 2024

Prefiled January 5, 2024

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

Patron—Ballard

Referred to Committee for Courts of Justice

**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 prisoners.**

A. Any person serving a sentence imposed upon a conviction for a felony offense, other than a Class 1 felony listed in subsection B, (i) who has reached the age of ~~sixty-five~~ 65 or older and who has served at least five years of the sentence imposed or (ii) who has reached the age of ~~sixty~~ 60 or older and who has served at least ~~ten~~ 10 years of the sentence imposed may petition the Parole Board for conditional release.

B. Any person serving a sentence imposed upon a conviction for the following felony offenses shall not be eligible to petition the Parole Board for conditional release pursuant to subsection A:

1. A Class 1 felony; or
2. Any of the following offenses, provided that such offense was committed on or after July 1, 2024:
  - a. Any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or 18.2-33;
  - b. Any violation of § 18.2-40 or 18.2-45;
  - c. Any violation of § 18.2-46.5, subsection A or B of § 18.2-46.6, or § 18.2-46.7;
  - d. 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;
  - e. 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;
  - f. Any felony violation of § 18.2-60.3;
  - g. Any felony violation of § 16.1-253.2 or 18.2-60.4;
  - h. Robbery under § 18.2-58 or carjacking under § 18.2-58.1;
  - i. 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;
  - j. Any violation of § 18.2-90 or 18.2-93;
  - k. Any violation of § 18.2-289 or subsection A of § 18.2-300;
  - l. Any felony offense under Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2 involving a minor victim;
  - m. Any felony offense under 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;
  - n. Any felony offense under 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;
  - o. Any violation of § 18.2-481, 40.1-100.2, or 40.1-103; or
  - p. 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 and the second or subsequent offense was committed on or after July 1, 2024:
    - (1) 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;
    - (2) Any violation of § 18.2-41 or 18.2-42.1;
    - (3) Any violation of subsection C of § 18.2-46.6;
    - (4) Any violation when done unlawfully but not maliciously of § 18.2-51 or 18.2-51.1;
    - (5) Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79;
    - (6) Any violation of § 18.2-89 with the intent to commit any larceny or § 18.2-92;
    - (7) Any violation of subsection A of § 18.2-374.1:1;
    - (8) Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; or
    - (9) Any violation of subdivision E 2 of § 40.1-29.

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59 C. The Parole Board shall promulgate regulations to implement the provisions of this section.

60 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
61 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
62 **necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and**  
63 **\$0 for periods of commitment to the custody of the Department of Juvenile Justice.**