

Department of Planning and Budget
2016 Fiscal Impact Statement

1. Bill Number: HB 1031

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

2. Patron: Sickles

3. Committee: Militia, Police and Public Safety

4. Title: Parole release

5. Summary:

The proposed legislation would require that the Parole Board order the release of any offender currently incarcerated in a state prison (i) who is eligible for parole and under consideration for parole and (ii) whose time already served on his or her sentence exceeds the midpoint of the most recent discretionary sentencing guidelines for the same or similar offense for which he or she was convicted. The legislation would allow the Parole Board to defer release if it found that (i) there was a substantial risk of serious criminal conduct or (ii) the release plan was inadequate to the point that the offender would not conform to the conditions of parole.

6. Budget Amendment Necessary: Yes. Items 389 and 426.

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

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2017	\$84,000	General
2018	\$0	
2019	\$0	
2020	\$0	
2021	\$0	
2022	\$0	

8. Fiscal Implications:

The Department of Corrections (DOC) estimates that there would be 671 inmates eligible for consideration for release under the terms of the proposed legislation. The proposed legislation authorizes the Parole Board to defer release of any eligible inmate if there is a

“substantial risk of serious criminal conduct”. Although the legislation does not define “substantial risk of serious criminal conduct” and the Parole Board would have the discretion to apply this test in the way it deemed most appropriate, there is some information available that could be used to project how many of the 671 eligible inmates might be actually released.

DOC has a risk/needs assessment instrument that it uses to project the risk of violence and risk of recidivism of offenders. Of the 671 eligible offenders it preliminarily identified, 330 scored as having both a low risk of violence and a low risk of recidivism on their latest risk/needs assessments. These 330 offenders would be the most likely candidates for release under the terms of the proposed legislation.

The proposed legislation could result in some savings, but would also result in workload increases for some state agencies in the short term, as follows:

- Sentencing guidelines—Although DOC has preliminarily identified the 671 offenders that would likely meet the criteria set out in the legislation, it used the median recommendation for each offense involved. A sentencing guideline for an offense will vary with the circumstances and the individual offender. For example, if an offender has committed a prior violent offense, the guideline recommendation for that offender will be higher than the recommendation for another offender convicted of the same offense, but with no prior conviction of a violent offense. Therefore, some of the 671 offenders preliminarily identified may not meet the criteria when an actual sentencing guideline was prepared and, conversely, some not tentatively identified may meet it. DOC has identified 2,921 offenders who were sentenced under the parole system and who will have reached their parole eligibility date by July 1, 2016. To comply with the legislation, a sentencing guideline would have to be prepared for each of these offenders.

The legislation is unclear as to who would have the responsibility of preparing these sentencing guidelines. Normally, probation and parole (P&P) officers prepare sentencing guidelines for the courts. It is assumed that P&P officers would perform this responsibility in this case. To gather the data needed to calculate the sentencing guideline scores for this many offenders will take a significant amount of time, especially for those cases that are fairly old. It is estimated that DOC would need the equivalent of one P&P officer for a year to perform this task, at a cost of \$54,000, if the agency used hourly personnel contracted for the job.

- Parole Board—The Parole Board would have to review each offender whose median sentencing guideline was less than his or her sentence to determine if the offender posed a substantial recidivism risk and if the release plan was adequate. To process the fairly sudden surge in its caseload in a reasonable amount of time, the Parole Board would need to hire another part-time parole examiner for the equivalent of approximately six months, at a cost of approximately \$30,000.

- P&P caseloads—Any increase in offenders being released on parole as a result of the proposed legislation would add to the supervisory responsibilities of P&P officers. However, because the offenders released would be spread throughout the state to some extent, it is not expected that DOC would need any additional P&P officers as a result of the legislation.
- Prison and jail populations—To the extent that additional offenders are released on parole as a result of the legislation, prison beds would be freed up. DOC would then be able to bring in more state responsible inmates from local and regional jails than had been projected. Because the state reimburses jails \$12 per day for housing state responsible offenders, there could be a savings. However, due to the uncertainty of the number of additional offenders who might be released and the timing of their releases, it is not possible to develop a reliable projection of the amount of possible savings.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Virginia Criminal Sentencing Commission
Virginia Parole Board

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 1/21/2016

Document: G:\LEGIS\fis-16\hb1031.docx Dick Hall-Sizemore