

## **Department of Planning and Budget**

### **2018 Fiscal Impact Statement**

**1. Bill Number: SB 100**

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

**2. Patron: McClellan**

**3. Committee: Senate Courts of Justice**

**4. Title: New Sentencing Hearing**

**5. Summary:**

The 1994 General Assembly Special Session II abolished parole for offenses committed on or after January 1, 1995. On June 9, 2000, the Virginia Supreme Court ruled that the jury in a noncapital criminal case should be instructed that parole had been abolished in Virginia (*Fishback v. Commonwealth*, 260 Va. 104).

The proposed legislation would provide the opportunity for a new resentencing hearing to any person still incarcerated who was sentenced by a jury prior to June 9, 2000, for a nonviolent felony offense committed on or after January 1, 1995, and the jury was not instructed on the abolition of parole. Any inmate who satisfied that criteria could petition the circuit court for a new resentencing hearing. The court, upon receipt of the petition, would empanel a new jury for the resentencing proceeding. If the attorney for the Commonwealth of the jurisdiction agreed, the offender could waive his right to a jury resentencing and allow the court to fix punishment. In either case, the new sentence could not exceed the original sentence.

**6. Budget Amendment Necessary: No. See Item 8.**

**7. Fiscal Impact Estimates: Indeterminate. See Item 8.**

**8. Fiscal Implications:**

According to data provided by the Department of Corrections (DOC), at the end of 2016, there were 10 inmates incarcerated in state prisons who were convicted by a jury before January 9, 2000, for a nonviolent felony offense committed on or after January 1, 1995. It is not known how many of those inmates had a jury that was not instructed that parole had been abolished in Virginia. The only way to determine that number would be to examine the trial transcript for each offender. Until that number is known, the potential fiscal impact of the legislation cannot be determined.

**9. Specific Agency or Political Subdivisions Affected:**

Department of Corrections  
Office of the Executive Secretary of the Supreme Court  
Various circuit courts  
Various attorneys for the Commonwealth

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** None.