



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2172 (Patron – Miyares)

LD#: 19100876 (Revised)

Date: 12/07/2018

Topic: Conditional release of geriatric prisoners

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
None (\$0) **
- **Juvenile Detention Facilities:**
None (\$0) **

** Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 53.1-40.01, relating to conditional release of geriatric inmates. Currently, an inmate serving a sentence for a felony, other than a Class 1 felony, (i) who has reached the age of sixty-five or older having served at least five years of the sentence or (ii) who has reached the age of sixty or older having served at least ten years of the sentence may petition the Parole Board for conditional release.

Under the proposal, inmates serving prison time for the following felonies would be ineligible for geriatric release consideration:

- First-degree murder (§ 18.2-32);
- Abduction with intent to defile, for the purposes of prostitution, or for the production of pornography (§ 18.2-48 (ii), (iii), or (v));
- Rape (§ 18.2-61);
- Forcible sodomy (§ 18.2-67.1);
- Object sexual penetration (§ 18.2-67.2);
- Aggravated sexual battery (§ 18.2-67.3);
- Sodomy or sexual intercourse with certain family members (§ 18.2-361(B) and § 18.2-366(B));
- Indecent liberties with a child (§ 18.2-370 and § 18.2-370.1); and
- Production of child pornography (§ 18.2-374.1).

Analysis:

According to data provided by the Virginia Department of Corrections, a total of 1,673 inmates were considered for geriatric release during FY2016-FY2018 (see table below). Of those considered, 89 inmates (5.3%) were granted geriatric release. During the three-year period, 263 inmates convicted of

one of the proposed disqualifying offenses were considered for geriatric release; however, none of the inmates convicted of specified offenses were granted release under this provision.

**Inmates Considered for and Granted Geriatric Release (§ 53.1-40.01)
by the Virginia Parole Board, FY2016-FY2018**

	FY2016	FY2017	FY2018	Total
Total number of inmates considered for geriatric release	520	455	698	1,673
Total number of inmates granted geriatric release	17	12	60	89
Number of inmates considered for geriatric release who were serving time for a proposed disqualifying offense	76	62	125	263
Number of inmates serving time for a proposed disqualifying offense who were granted geriatric release	0	0	0	0

Source: Virginia Department of Corrections (December 6, 2018)

Impact of Proposed Legislation:

State adult correctional facilities. The proposal would reduce the number of inmates eligible for geriatric release under § 53.1-40.01. During the most recent three fiscal years, however, the Parole Board has not granted geriatric release to any inmate convicted of one of the proposed disqualifying offenses. Thus, making these inmates ineligible for geriatric release is unlikely to increase the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Because the proposal applies to state inmates, it is not expected to have an impact on local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to have an impact on state or local community corrections resources in Virginia.

Virginia’s sentencing guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the proposal is not expected to impact direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to impact the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.