

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB431

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Scott

3. Committee: House Subcommittee on Public Safety

4. Title: Conditional release of geriatric prisoners.

5. Summary: Currently, 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 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 may grant or deny the petition.

The proposed legislation amends the current law and provides that the Parole Board shall grant release to any person who has reached the age of 65 or older and who has served at least five years of the sentence imposed or who has reached the age of 60 or older and who has served at least 10 years of the sentence.

6. Budget Amendment Necessary: Yes, Item 397.

7. Fiscal Impact Estimates: Preliminary (see Item 8 below).

8. Fiscal Implications: According to the Virginia Parole Board (VPB), the proposed legislation would allow for automatic release of eligible offenders based on the age and the time served. As such, the VPB does not anticipate a fiscal impact on their operations as a result of the proposed legislation.

According to the Department of Corrections (DOC), approximately 1,500 prisoners may be eligible for immediate release as a result of this legislation. The DOC expects that any bed space made available as a result of releasing these prisoners would be filled by state-responsible offenders who are currently housed in jails. The DOC estimates that there are approximately 7,000 state-responsible offenders currently housed in local jails. If eligible, these offenders would be moved from the jails into a DOC facility, once beds are available. The Commonwealth currently pays localities \$12.00 a day for each state-responsible offender held in a jail. Therefore, the amount paid to jails for such offenders would be reduced to the extent that, and the rate at which, such offenders are moved to DOC facilities.

Typically, the DOC incurs greater expenses for medical and pharmaceutical care for older offenders; therefore there may be savings associated with releasing geriatric offenders under the provisions of this bill. However, the agency expects that once released, these offenders

would be supervised by probation and parole officers, resulting in additional need for resources to expand services and programs in various probation and parole districts. Currently, the type of supervision is categorized by distinct levels of supervision that correspond with an offender's treatment plan. At a ratio of 70 offenders to one supervising officer, the agency would need to hire and train an additional 22 probation/parole officers, at a projected cost of \$1,575,882 annually, to supervise offenders released under this bill.

Prisoners who were incarcerated for sexually violent offenses and eligible for release under the bill could also be subject to the Civil Commitment of Sexually Violent Predators (SVP) Act (§ 37.2-900 et seq.). However, the immediate impact cannot be determined at this time.

Because most of these offenders are subject to supervision after release, if they violate the terms and condition of their supervision they would temporarily be held in local jails; however, the impact that re-incarcerating violators may have on local correctional facilities would be offset by the number of state-responsible offenders that would be transferred to DOC for re-entry services before release. The Commonwealth currently pays localities \$4.00 a day for each local-responsible prisoner held in a jail and \$12.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. According to the Compensation Board's most recent Jail Cost Report (November 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections; Local Correctional facilities, Compensation Board, Department of Behavioral Health and Developmental Services, Courts

10. Technical Amendment Necessary: None

11. Other Comments: Currently, Item 423 of Chapter 854, 2019 Acts of Assembly, provides that "[n]otwithstanding the provisions of §53.1-40.01, Code of Virginia, the Parole Board shall annually consider for conditional release those inmates who meet the criteria for conditional geriatric release set out in §53.1-40.01, Code of Virginia, except that upon any such review the Board may schedule the next review as many as three years thereafter. If any such inmate is also eligible for discretionary parole under the provisions of §53.1-151 et seq., Code of Virginia, the board shall not be required to consider that inmate for conditional geriatric release unless the inmate petitions the board for conditional geriatric release."