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SENATE BILL NO. 109

Offered January 12, 2022

Prefiled January 6, 2022

A BILL to amend and reenact §§ 53.1-136 and 53.1-165.1 of the Code of Virginia, relating to offenders under 21 years of age; parole.

Patrons—Morrissey and Boysko

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

- 1. That §§ 53.1-136 and 53.1-165.1 of the Code of Virginia are amended and reenacted as follows:**
§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.

In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and eligibility requirements, which shall be published and posted for public review;

2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those prisoners who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and rehabilitation and the lesser culpability of ~~juvenile~~ *youthful* offenders;

3. a. Release on parole for such time and upon such terms and conditions as the Board shall prescribe, persons convicted of felonies and confined under the laws of the Commonwealth in any correctional facility in Virginia when those persons become eligible and are found suitable for parole, according to those rules adopted pursuant to subdivisions 1 and 2;

b. Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and subsection A of § 19.2-295.2;

c. Notify the Department of Corrections of its decision to grant discretionary parole or conditional release to an inmate. The Department of Corrections shall set the release date for such inmate no sooner than 30 business days from the date that the Department of Corrections receives such notification from the Chairman of the Board, except that the Department of Corrections may set an earlier release date in the case of an inmate granted conditional release pursuant to § 53.1-40.02. In the case of an inmate granted parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release pursuant to § 53.1-40.01 or 53.1-40.02 or (ii) by telephone or other electronic means prior to such inmate's release that such inmate has been granted conditional release pursuant to § 53.1-40.02 where death is imminent. Nothing in this section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release on discretionary parole;

d. Provide that in any case where a person who is released on parole or postrelease supervision has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 the conditions of his parole or postrelease supervision shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services and that he follow all of the terms of his treatment plan;

4. Revoke parole and any period of postrelease and order the reincarceration of any parolee or felon serving a period of postrelease supervision or impose a condition of participation in any component of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole or postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society;

6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or remission of fine, or penalty when requested by the Governor;

7. Publish by the fifteenth day of each month a statement regarding the action taken by the Board on the parole of prisoners during the prior month. The statement shall list (i) the name of each prisoner considered for parole, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the amount of time the prisoner has served, (v) whether the prisoner was granted or denied parole, and (vi) the basis for the grant or denial of parole. However, in the case of a prisoner granted parole, the information set forth in clauses (i) through (vi) regarding such prisoner

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59 shall be included in the statement published in the month immediately succeeding the month in which
60 notification of the decision to grant parole was given to the attorney for the Commonwealth and any
61 victims; and

62 8. Ensure that each person eligible for parole receives a timely and thorough review of his suitability
63 for release on parole, including a review of any relevant post-sentencing information. If parole is denied,
64 the basis for the denial of parole shall be in writing and shall give specific reasons for such denial to
65 such inmate.

66 **§ 53.1-165.1. Limitation on the application of parole statutes.**

67 A. The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence
68 imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after
69 January 1, 1995. Any person sentenced to a term of incarceration for a felony offense committed on or
70 after January 1, 1995, shall not be eligible for parole upon that offense.

71 B. The provisions of this article shall apply to any person who was sentenced by a jury prior to June
72 9, 2000, for any felony offense committed on or after January 1, 1995, and who remained incarcerated
73 for such offense on July 1, 2020, other than (i) a Class 1 felony or (ii) any of the following felony
74 offenses where the victim was a minor: (a) rape in violation of § 18.2-61; (b) forcible sodomy in
75 violation of § 18.2-67.1; (c) object sexual penetration in violation of § 18.2-67.2; (d) aggravated sexual
76 battery in violation of § 18.2-67.3; (e) an attempt to commit a violation of clause (a), (b), (c), or (d); or
77 (f) carnal knowledge in violation of § 18.2-63, 18.2-64.1, or 18.2-64.2.

78 C. The Parole Board shall establish procedures for consideration of parole of persons entitled under
79 subsection B consistent with the provisions of § 53.1-154.

80 D. Any person who meets eligibility criteria for parole under subsection B and pursuant to
81 § 53.1-151 as of July 1, 2020, shall be scheduled for a parole interview no later than July 1, 2021,
82 allowing for extension of time for reasonable cause.

83 E. Notwithstanding the provisions of subsection A or any other provision of this article to the
84 contrary, any person sentenced to a term of life imprisonment for a single felony or multiple felonies
85 committed while the person was a ~~juvenile~~ *under 21 years of age* and who has served at least 20 years
86 of such sentence shall be eligible for parole and any person who has active sentences that total more
87 than 20 years for a single felony or multiple felonies committed while the person was a ~~juvenile~~ *under*
88 *21 years of age* and who has served at least 20 years of such sentences shall be eligible for parole. The
89 Board shall review and decide the case of each prisoner who is eligible for parole in accordance with
90 § 53.1-154 and rules adopted pursuant to subdivision 2 of § 53.1-136.