

HOUSE BILL NO. 1326
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Public Safety
on _____)
(Patron Prior to Substitute—Delegate Tata)

A BILL to amend and reenact § 53.1-40.01 of the Code of Virginia, relating to conditional release of geriatric prisoners.

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-40.01 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-40.01. Conditional release of geriatric prisoners.

A. Any person serving a sentence imposed upon a conviction for a felony offense, other than a ~~Class 1~~ felony *listed in subsection B*, (i) who has reached the age of ~~sixty-five~~ 65 or older and who has served at least five years of the sentence imposed or (ii) who has reached the age of ~~sixty~~ 60 or older and who has served at least ~~ten~~ 10 years of the sentence imposed may petition the Parole Board for conditional release.

B. Any person serving a sentence imposed upon a conviction for the following felony offenses shall not be eligible to petition the Parole Board for conditional release pursuant to subsection A:

1. Any Class 1 felony; or

2. Any of the following offenses, provided that such offense was committed on or after July 1, 2026:

a. Any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or 18.2-33;

b. Any violation of § 18.2-40 or 18.2-45;

c. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, except when not committed against a minor, a violation of subdivision A 5 of § 18.2-67.3, § 18.2-67.4:1, subsection B of § 18.2-67.5, or § 18.2-67.5:1; or

d. A second or subsequent felony violation of the following offenses when such offenses were not part of a common act, transaction, or scheme and such person has been at liberty as defined in § 53.1-151 between each conviction and the second or subsequent offense was committed on or after July 1, 2026:

(1) Voluntary or involuntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2 or any crime punishable as such;

(2) Any violation of § 18.2-41 or 18.2-42.1;

(3) Any violation when done unlawfully but not maliciously of § 18.2-51 or 18.2-51.1;

(4) Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79;

(5) Any violation of § 18.2-89 with the intent to commit any larceny or § 18.2-92;

(6) Any violation of subsection A of § 18.2-374.1:1; or

(7) Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2.

C. Any prisoner eligible for conditional release pursuant to this section that is serving a sentence for a conviction of any of the offenses listed in subsection B shall only be eligible for review once every 10 years.

D. The Parole Board shall promulgate regulations to implement the provisions of this section.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is _____ for periods of imprisonment in state adult correctional facilities; therefore, Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is _____ for periods of commitment to the custody of the Department of Juvenile Justice.