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SENATE BILL NO. 209**FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by Senator DeSteph
on February 16, 2026)

(Patron Prior to Substitute—Senator DeSteph)

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 4 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;

d. Any violation of § 40.1-100.2 or 40.1-103; or

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

(4) Any violation of § 18.2-92;

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

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

C. The Parole Board shall promulgate ~~regulations~~ rules 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 \$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.