

Virginia

In Virginia since 1995, family, friends of the incarcerated and prison activists, VACURE, VAACLU, RIHD, SHENVAPP-HRC, and Delaware Valley Coalition have been fighting for their loved ones that were trapped in prison when the decision was made to abolish parole. "Old law" prisoners immediately had decades added to their sentences placing them in a new population of geriatric prisoners. Some of the legislation groups have presented and fought for in order for these "old law" prisoners to be release and to bring back a parole board.

SB1437 Parole Eligibility

"All presently incarcerated persons convicted and sentenced by a jury on or after January 1, 1995, and before the Fishback decision, provides that a person is entitled to parole who was sentenced by a jury before the date of the Supreme Court of Virginia decision in Fishback v. Commonwealth, 260 Va. 104 (June 9, 2000), in which the Court held that a jury should be instructed on the fact that parole has been abolished, for a non-capital felony committed after the time that the abolition of parole went into effect (January 1, 1995). The bill also allows a presentence report to be made available for review without a court order to incarcerated persons who are eligible for release by the Virginia Parole Board, or to such person's counsel."
-Senator Jennifer McClellan

HB1689 and SB1437

Both give discretionary parole eligibility to the "Fishback cases", where the jury was not informed that parole had been abolished.

Parole Derailed

Parole in Virginia was abolished in 1995, with the implementation of "Truth-in-sentencing" (no parole). Twenty years later, with little to no needed oversight, two (2) systematic sentencing errors/injustices affecting thousands have been allowed to continue and remain uncorrected. This traps over 3500 prisoners who were eligible for parole. Virginia has a geriatric prison and recently created an assisted living inside the prison.

Jury Trial/Fishback: Between 1995 and 2000, juries were imposing sentences without knowing that Virginia abolished parole in 1995. Jurors were not informed even in cases when panels asked if there was parole

In 2015 Governor McAuliffe commissioned a study to bring parole back two decades after it was abolished by then Governor George Allen amid a wave of tough on crimes laws across the country. Overhauled he appointed to parole board Adrienne L. Bennett as Chair of Parole Commission. In 2017, Governor McAuliffe restored voting rights to over 150,000 formerly incarcerated.

Parole Board Members

1. Adrienne L. Bennett, Chair; Adrienne Bennett was appointed to the Virginia Parole Board on October 5, 2015. On January 5, 2017 she was appointed to serve as chair of the Virginia Parole Board.
2. Jean W. Cunningham, Vice Chair; Jean Cunningham was appointed to Virginia Parole Board in January 2017
3. Rev. A. Lincoln James was appointed to the Virginia Parole Board in 2014. James previously served as a pastor of three churches, third vice president of the National Baptist Congress of Christian Education,
4. Sherman P. Lea, Sr. was appointed to the Virginia Parole Board in 2014 and had previously served in the Virginia Department of Corrections for 35 years before retiring in January of 2012.
5. Linda Bryant was appointed to the Virginia Parole Board in 2018. She has served as a Captain on Active Duty in the United States Army. After active duty, she served as a Trial Defense Attorney and Major in the United States Army Reserves. She joined the Norfolk Commonwealth's Attorney's Office in 1996, rising through the ranks to become a Deputy Commonwealth's Attorney where she served for nearly 17 years. In 2016-2017, Bryant was instrumental in spearheading legislation to make it easier for jail administrators to obtain temporary detention orders for inmates with serious mental illness in crises.

Parole Process

The Virginia Parole Board reviews all eligible offenders. An offender is eligible for parole if he or she falls into one of the following categories:

1. The offender committed the crime prior to January 1, 1995
2. The offender has multiple misdemeanors committed prior to July 1, 2008
3. The offender was sentenced to indeterminate sentences under the Youthful Offender Act

Once an offender is eligible for parole, the parole process in Virginia goes through the three steps described below.

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[Virginia Code Section 53.1-136](#) empowers the Board to make the following decisions for persons who committed their crime prior to January 1, 1995:

- to conditionally release offenders who are parole eligible, and found suitable for release
- to revoke parole and post release supervision of those under supervision found to be in violation of the terms of their release, and
- to investigate, prepare reports and advise the Governor, when requested, on Executive Clemencies.

[Virginia Code Section 53.1-40.01](#) also makes the Parole Board responsible to act on geriatric requests for conditional release.

Notwithstanding the provisions of [Virginia Code Section 53.1-40.01](#), the Parole Board shall annually consider for conditional release those inmates who meet the criteria for conditional geriatric release set out in [Virginia Code Section 53.1-40.01](#). If any such inmate is also eligible for discretionary parole under the provisions of [Virginia Code Section 53.1-151](#) et seq., the board shall not be required to consider that inmate for conditional geriatric release unless the inmate petitions the board for conditional geriatric release.

Compiled by: Tomiko Shine; Aging People in Prison Human Rights Campaign (APP-HRC)

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