

Fall 2019 Highlights

2020 Legislation -p pages 1-4

Governor's Agenda page 4

Parole page 5



This year, with Democrats gaining seats in the legislature, we are hopeful that some of our bills will become law. This issue of Inside Out features our legislative report. An updated list will be posted on our web site www.vacure.org. A number of the bills have companion bills as well, some of which are listed. The list on the web site is complete while bills in this publication are selected as they exemplify the direction the General Assembly is going in. By the time this newsletter is published, the list will have changed. Results of the session will be published in the next edition of the newsletter.

Virginia CURE Legislative Report 2020

Parole

HB 33 Parole; exception to limitation on the application of parole statutes. Introduced by: [Joseph C. Lindsey](#). Provides that a person is entitled to parole if (i) such person was sentenced by a jury prior to 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 noncapital felony committed on or after the abolition of parole

SB 91 Parole; application of statutes. Introduced by: [John S. Edwards](#). Repeals the abolition of parole. The bill also provides that the Virginia Parole Board shall establish procedures for consideration of parole for persons who were previously ineligible for parole, because parole was abolished, to allow for an extension of time for reasonable cause *Also SB 430 Don Scott (elect)*

SB 103 Juvenile Offenders; Parole. Introduced by: [David W. Marsden](#). Provides that any person sentenced to a term of life imprisonment for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 20 years of such sentence, and any person who has active sentences that total more than 20 years for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 20 years of such sentences, shall be eligible for parole *also HB 250 Vivian Watts*

HJ 26 JLARC; reinstatement of discretionary parole, report. Introduced by: [Vivian E. Watts](#). Directs the Joint Legislative Audit and Review Commission to study the reinstatement of discretionary parole, which was abolished in 1995.

Reentry

HB 32 Police and court records; expungement of records for misdemeanor and nonviolent felony convictions. Introduced by: [Joseph C. Lindsey](#). Allows a person convicted of a misdemeanor or nonviolent felony to file a petition requesting expungement of the police and court records relating to the conviction if such person has (i) been free from any term of incarceration, probation, and postrelease supervision imposed as a result of such conviction for at least eight years, (ii) no prior or subsequent convictions other than traffic infractions, and (iii) no pending criminal proceeding

HB 31 Charges and convictions, certain; expungement. Introduced by: [Joseph C. Lindsey](#). Allows a person to petition for expungement of convictions and deferred disposition dismissals for marijuana possession, underage alcohol possession, and using a false ID to obtain alcohol when the offense occurred prior to the person's twenty-first birthday; all court costs, fines, and restitution have been satisfied; and five years have elapsed since the date of completion of all terms of sentencing and probation.

SB 1 Driver's license; suspension for nonpayment of fines or costs. Introduced by: [William M. Stanley, Jr.](#) ...Repeals the requirement that the driver's license of a person convicted of any violation of the law who fails or refuses to provide for immediate payment of fines or costs be suspended. ...*Also SB10 introduced by Adam Ebbin*

SB 154 Restricted licenses; allowable purposes. Introduced by: [Richard H. Stuart](#) .•Adds travel to and from the offices of the Virginia Employment Commission for the purpose of seeking employment to the list of purposes for which a court may issue a restricted driver's license.

HB 91 Police and court records; person convicted of certain offenses, expungement of records. Introduced by: [Mark L. Cole](#) .•Allows a person convicted of certain offenses, or charged with such offenses which charges were deferred and dismissed, who was under 21 years of age at the time of the offense, and who has successfully completed all terms of probation to file a petition for expungement after at least seven years have passed since (i) the date of dismissal of the charge; (ii) the date of conviction, if no active sentence of incarceration was imposed; or (iii) the date of completion of an active sentence of incarceration, if an active term of incarceration was imposed as a result of the conviction...

HB 267 Police and court records, expungement of records Introduced by: [Steve E. Heretick](#) .•Provides that a court that enters a nolle prosequi for a criminal charge or dismisses such charge for any reason may, upon motion of the person charged, enter an order requiring the expungement of the police and court records relating to the charge.

HB 320 Convictions, certain, and police and court records; petition for reclassification or expungement. Introduced by: [Mark H. Levine](#) .•Allows a person who has been convicted of (i) a felony or misdemeanor offense that has been decriminalized or otherwise made lawful or (ii) a felony offense that has been statutorily reduced to a misdemeanor offense since the conviction of such person to file a petition requesting (a) expungement of the police records and the court records relating to any misdemeanor or felony charge that has been decriminalized or otherwise made lawful or (b) reclassification of the police records and the court records relating to a felony offense that has been statutorily reduced to a misdemeanor offense.

SB 155 TANF; eligibility for drug-related felonies. Introduced by: [Barbara A. Favola](#) .•Provides that a person who is otherwise eligible to receive Temporary Assistance for Needy Families (TANF) shall not be denied such assistance solely because he has been convicted of a felony offense of possession of a controlled substance in violation of § 18.2-250, provided that such person is complying with, or has already complied with, all obligations imposed by the criminal court, is actively engaged in or has completed a substance abuse treatment program, participates in periodic drug screenings, and meets any other obligations as determined by the Department of Social Services *also HB666 Elizabeth Guzman*

Courts

SB 133 Criminal cases; deferred disposition. Introduced by: [Richard H. Stuart](#) . Allows a court to defer and dismiss a criminal case where the defendant has been diagnosed with autism or an intellectual disability

HB 85 Death penalty; abolishes penalty, including those persons currently under a death sentence. Introduced by: [Lee J. Carter](#) .

HB 87 Marijuana; legalization of simple possession, penalties. Introduced by: [Lee J. Carter](#) . Eliminates criminal penalties for possession of marijuana for persons 21 years of age or older. The bill also decriminalizes marijuana possession for persons under 21 years of age and provides a civil penalty of no more than \$100 for possession of (i) two and one-half ounces or less of marijuana or (ii) 12 or fewer marijuana plants and a civil penalty of no more than \$500 for possession of more than (a) two and one-half ounces of marijuana or (b) 12 marijuana plants.... from the use of *such* Also SB 2 Adam Ebbin...

HB 265 Marijuana; decriminalization of simple marijuana possession, civil penalty. Introduced by: [Steve E. Heretick](#) .•Decriminalizes marijuana possession and provides a civil penalty of no more than \$25. ..The bill creates a rebuttable presumption that a person who possesses no more than one-half ounce of marijuana possesses it for personal use and provides that the existing suspended sentence and substance abuse screening provisions apply only to criminal violations or to civil violations by a minor....

HB 274 Juveniles; trial as adult. Introduced by: [Joshua G. Cole \(Elect\)](#) .Increases from 14 years of age to 16 years of age the minimum age at which a juvenile can be tried as an adult in circuit court for a felony.

HB 277 Court fines and costs; community work in lieu of payment during imprisonment . Introduced by: [Marcia S. "Cia" Price](#) . Allows courts to provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work during imprisonment.

HB 279 Sentencing proceeding by the jury after conviction; recommendation of leniency. Introduced by: [Patrick A. Hope](#) .•Provides that a jury may, in ascertaining the punishment for a person convicted of a felony or Class 1 misdemeanor, recommend that the sentence imposed be suspended in whole or in part, or that sentences imposed for multiple offenses be served concurrently, except where such suspension of sentence or concurrent service is prohibited by law....

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HB 101 Grand larceny; increases threshold amount. Introduced by: [Joseph C. Lindsey](#)•increases from \$500 to \$750 the threshold amount of money taken or value of goods or chattel taken at which the crime rises from petit larceny to grand larceny. The bill increases the threshold by the same amount for the classification of certain property crimes.

HB 263 Grand larceny; threshold. Introduced by: [Alfonso H. Lopez](#) Increases from \$500 to \$2,000 the threshold amount of money taken or value of goods or chattel taken at which the crime rises from petit larceny to grand larceny. The bill increases the threshold by the same amount for the classification of certain property crimes.

HB 266 Criminal cases and traffic infractions; eliminates accrual of interest on fines and costs.: [Steve E. Heretick](#) . Eliminates the accrual of interest on any fine or costs imposed in a criminal case or in a case involving a traffic infraction...

HB 258 Post-conviction relief; previously admitted scientific evidence, report.: [Marcus B. Simon](#) . Provides that a person who was convicted of certain offenses, upon a plea of not guilty or an Alford plea, or who was adjudicated delinquent, upon a plea of not guilty or an Alford plea, by a circuit court of an offense that would be a covered offense if committed by an adult may petition the Court of Appeals to have his conviction vacated. ...

Other

HB 551 Juvenile community correctional centers; establishment; placement of juveniles. Introduced by: [Jeion A. Ward](#) .•Changes the name of "juvenile correctional centers" to "juvenile community correctional centers." The bill further provides that any juvenile community correctional center established after July 1, 2020, shall (i) be located within a locality in which at least five percent of all juvenile commitments occur statewide, using an average of the rate of commitments of three consecutive years, and (ii) be designed to confine 30 juveniles or fewer ...

SB 215 Inmates; review of death in local correctional facilities, report. [David R. Suetterlein](#)••Provides that the Board of Corrections shall publish, on its website, an annual report summarizing the jail death reviews conducted by the Board within that year. The bill provides that such report shall include any trends or similarities among the deaths of inmates in local correctional facilities and present recommendations on policy changes to reduce the number of deaths in local correctional facilities.

HB 281 Prisoners; medical care. Introduced by: [Patrick A. Hope](#) . Eliminates the Department of Corrections prisoner co-payment program for nonemergency health care services.

HJ 27 Study; Virginia State Crime Commission; equity and fairness in Virginia's criminal justice system. Introduced by: [Michael P. Mullin](#) ;•Directs the Virginia State Crime Commission to study equity and fairness in Virginia's criminal justice system and to submit its findings and recommendations to the General Assembly no later than the first day of the 2021 Regular Session.

HJ 28 Study; expungement of criminal records; report. Introduced by: [Michael P. Mullin](#) .•Directs the Virginia State Crime Commission to study expungement of criminal records.

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SB 150 Criminal fiscal impact statement; bills resulting in a net increase of period of imprisonment. [Janet D. Howell](#) Provides that no bill resulting in an increase in net periods of imprisonment or commitment shall be (i) reported from a standing committee of the House of Delegates or the Senate or (ii) passed by the House of Delegates or the Senate unless a fiscal impact statement for the current version of the bill has been prepared and is printed on the face of the bill or reported or passed as an amendment to such bill. Current law requires such fiscal impact statements to be prepared and the amount of the estimated appropriation reflected in the fiscal impact statement to be printed on the face of each bill.

Governor Northam Unveils Bold Criminal Justice Reform Agenda

Legislative initiatives include decriminalization of marijuana, parole reform, raising the felony larceny threshold, raising the age of juvenile transfer to adult court, and the permanent elimination of driver's license suspensions for unpaid fines, fees, and court costs. All Virginians deserve access to a fair and equitable criminal justice system," said Governor Northam. "My proposed criminal justice reform legislation and budget initiatives will combat mass incarceration, increase supports for returning citizens, and ensure meaningful second chances for those who have paid their debts to society. This is a bold step towards a more just and inclusive Commonwealth, and I look forward to working with the General Assembly to pass these measures into law." The initiatives are supported by the new budget which also includes

- \$2.8 million to hire 29 more assistant commonwealth's attorneys,
- \$9.5 million for 59 more public defenders,
- \$5.4 million to set up a 35-lawyer public defenders' office in Prince William County,
- \$4.5 million for legal defense of indigent people in general district court,
- \$4.5 million for indigent legal defense in juvenile and domestic relations court,
- \$3.8 million for circuit court clerks to boost staff and \$5.6 million to help district court clerks hire help to deal with an overwhelming workload.

The Department of Corrections gets \$14.7 million to boost correctional officers' salaries and \$27.6 million to cover the very costly medication to treat prisoners with Hepatitis C. Lawsuits in other states have led judges to order prisons to provide that care, and civil suits [have accused](#) Virginia's prison system of [failing to adequately treat](#) prisoners who have it. Northam's budget also gives the DOC more than \$20 million for other prison health care and nearly \$13 million for electronic medical records, a technology that is supposed to hold medical costs down over the long term.

Future of Northern Virginia Youth Detention Center questioned .

Lighter sentences special programs and preventative efforts have left . more than two-thirds of the cells at the Northern Virginia Juvenile Detention Center empty. For the past decade, the number of youths awaiting court dates or serving short sentences here has dropped by almost three-quarters — mirroring a nationwide decline in youth detention that experts attribute to falling crime rates and a turn toward alternative sentencing.

More Deaths this summer at Fluvanna Correctional Center for Women

Three deaths occurred this summer at Fluvanna Correctional Center for Women in spite of an injunction issued by a federal judge in January saying officials there were not upholding their constitutional medical duties. Attorneys with the Charlottesville-based Legal Aid Justice Center — who represent plaintiffs in a year's long battle with the Virginia Department of Corrections — had filed an emergency relief motion on the prisoner's behalf seeking immediate changes to her care. The prisoner died while waiting for a decision, but her attorneys are still pushing for the systemic changes the motion could bring — some of which are already supposed to be happening under a federal settlement agreement from years ago that state officials are appealing in court.

A Note About Letters to Virginia CURE

While Virginia CURE cares about your concerns and appreciates being kept informed, we don't have a volunteer staff large enough to reply promptly to all letters received .Please, keep it short and to the point. **Do not send legal papers.** We do not have the capacity to deal with legal issues. Send mail to **P.O. Box 2310, Vienna, VA 22183**

Kemba Pradia Smith Joins Virginia Parole Board

The Virginia Parole Board welcomed a new member, Kemba Pradia Smith in September. Ms. Smith gained fame after her pardon by President Clinton. When she was 24, Pradia, who had no prior criminal record, was sentenced to 24½ years in prison after getting caught up in the crack-dealing activities of her boyfriend. She became a focal point of a national campaign against federal mandatory sentencing laws in crack-trafficking cases. She had served over 6 years when she was pardoned. Since then, she has gone on to work hard for change in criminal justice systems both statewide and nationally. Prior to the appointment, she was the state advocacy campaigns director with the ACLU of Virginia, the author of “Poster Child: The Kemba Smith Story,” has been a national advocate for sentencing reform and a consultant on the criminal justice system for over 20 years. She has worked with officials at the White House, the United Nations in Geneva, Switzerland, and members of Congress, and has led training for federal and state probation organizations across the country. She has served on the Virginia Criminal Sentencing Commission since 2015. Virginia CURE remembers a helpful statewide directory of social services she assembled for resources for newly released persons.

We welcome Ms. Smith to the Parole Board with hope that she will make a much needed difference in parole grant rates which have been lower than we had hoped last year.

Month	Reg Parole Grants	Total Heard	Per Cent	Geriatric Grants	Total Heard	Percent
Jan	16	193	8	3	43	6
Feb	35	161	20	5	42	1
Mar	7	87	8	0	19	0
April	12	178	7	4	50	8
May	8	196	4	5	64	9
June	25	197	13	0	75	0
July	20	174	7	7	74	9
August	1	185	0.05	0	103	0
September	4	121	2	0	74	0
October	10	137	7	0	35	0
November	25	181	14	1	40	0.2
December	not available					

Legislators Propose Justice Commission

Two Democratic state legislators recommend changing the State Crime Commission into the “Virginia Justice Commission.” Legislation introduced by Sen. Scott Surovell, D-Mount Vernon, and Del. Patrick Hope, D-Arlington, would broaden the commission’s focus from solely crime and punishment to include diversion, rehabilitation, collateral consequences of convictions, firearm violence prevention, equity and fairness in the criminal legal system and prisoner re-entry.

Jail Cost Report

For the 2018 fiscal year Northern Neck Regional Jail held its title for having the lowest operating costs of any jail in the state, regional or otherwise, the latest Jail Cost Report shows. regional jails’ average operating costs were \$69.45 per inmate per day, beating the statewide average of \$87.20, but Northern Neck Regional Jail undercut both, with costs of \$48.83 per inmate

Superintendent charged for multiple offenses

Superintendent John Higgins of Rockbridge County Regional Jail was charged with four counts of deprivation of rights under color of law, with two of the four counts alleging that Higgins denied detainees medical care for serious medical needs, resulting in bodily injury, two counts of conspiracy to commit mail fraud, and 15 counts of mail fraud. In addition, former head nurse, Gary Andrew Hassler, is charged with two counts of falsifying documents in order to obstruct a federal investigation.

Indian Head therapeutic program

The prison situated in Chesapeake is considered by state officials to be the largest treatment-oriented facility of its kind in the nation. Nearly 1,000 prisoners reside inside Indian Creek and participate in its highly structured "Therapeutic Community" treatment program. The program places prisoners in leadership and mentoring roles among fellow inmates. That's not to say they are taking the place of guards, but they do have responsibilities for keeping the peace. Indian Creek has flipped the traditional system of incarceration on its head. At the facility, some prisoners are "brother's keepers," a title comes with the responsibility of ensuring fellow offenders stay in line. When an offender breaks a rule, their brother's keeper must write them up. Shortly thereafter, everyone gathers in a common area to discuss the incident. Sometimes, the process is confrontational. But often, there's an apology and a promise to try to do better. These processes instill accountability within prisons, and they create a positive hierarchical system that fosters mentorship and fosters responsibility. Sticking with the program means inmates are offered small incentives such as being first in line for meals. It may not seem like much, but Indian Creek is, after all, a prison. And the rewards make a difference.

First Step Act Update

Dale Chappell and Douglas Ankney

Excerpted From "Prison Legal News"

As of late July 2019, the federal Bureau of Prisons (BOP) had released over 3,000 prisoners under the First Step Act, a landmark criminal justice reform measure signed in December 2018 by President Trump. The law also resulted in the reduction of 1,691 federal prison sentences, according to the U.S. Sentencing Commission (USSC). The largest group of those released were drug offenders.

The reduced sentences were for federal prisoners left out of the 2010 Fair Sentencing Act (FSA). The FSA was not applied retroactively, but the First Step Act explicitly extended its provisions to pre-2010 sentences. The USSC said 25 percent of those sentence reductions were granted to prisoners whose cases originated in three states: Florida, South Carolina and Virginia. Over 91 percent were African Americans, and most were male

The Act also removed mandatory life sentences for "three-strikes" drug offenders, replacing them with 25-year sentences, and expanded judges' ability to use a "safety valve" provision when sentencing nonviolent drug offenders.

The U.S. Department of Justice said it would allocate \$75 million to fund the First Step Act this year, adding a new "risk and needs assessment system designed to assess inmates' risks of recidivism and to identify their individualized needs to reduce their risks of re-offending." That is of particular importance to most federal prisoners, since the First Step Act also mandates an increase in sentence-reducing good conduct credits from 47 days per year to 54 days. The BOP estimated

another 3,000 prisoners could be eligible for early release in addition to the 3,100 who have already been freed.

The First Step Act also reauthorizes the ten-year-old Second Chance Act with \$100 million in funding. Another provision of the First Step Act calls for placing prisoners in facilities no more than 500 miles from their home. The First Step Act retroactively applies the FSA to reduce mandatory minimum penalties for crack-related offenses that occurred before 2010. The Charles Colson Task Force on Federal Corrections (CTFFC), created by Congress in 2014, recommends that other portions of the First Step Act be applied retroactively, too.

The CTFFC has also called for the creation of a visitation and family affairs office within the BOP, and the establishment of a "second look" process to allow prisoners to apply for resentencing after serving 15 years.

A new sentence: life after death!

What does it mean to complete a sentence of life in prison? One prisoner claims he has done it by serving time until the moment of his death — plus another four years since — and says it is well past time to set him free.

The prisoner, Benjamin Schreiber, made that argument to an appeals court in Iowa, saying that when he briefly died in 2015, before being revived at a hospital, he completed his obligation to the state. He asked the three-judge panel to let him get on with his life.

The judges rejected his argument this week, ruling that a lower court had been right to dismiss his petition.

"Schreiber is either still alive, in which case he must remain in prison, or he is actually dead, in which case this appeal is moot," Judge Amanda Potterfield wrote for the court

CURE Chapters

Northern Virginia CURE
 Carla Peterson
 Carla4vacure@gmail.com
 3rd Thursday, 7:30 PM
 Arlington Unitarian Church
 4444 Arlington Blvd.
 Arlington VA 22204

Richmond CURE
 Mary Anne Stone
 mary.anne.stone@verizon.net
 4th Sunday, 1 :00 PM
 Friends Meeting House
 4500 Kensington Ave
 Richmond VA 23221

Hampton Roads CURE
 James Bailey
 Jbailey383@aol.com
 3rd Tuesday, 7:00 PM
 Norview Baptist Church
 1127 Norview Ave.
 Norfolk VA 23513

Please contact us for changes

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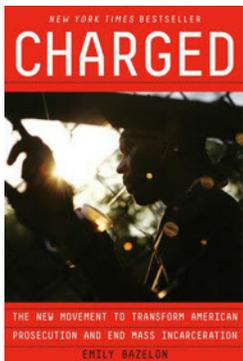
Please see membership form on back page.

We can't do this without you.

WE NEED YOUR EMAIL ADDRESS!

If you have an email address and are not receiving updates from Virginia CURE, please send a message to carla4vacure@gmail.com

Book Reviews:



Charged: The New Movement to Transform American Prosecution and End Mass Incarceration

by Emily Bazelon

• A renowned journalist and legal commentator exposes the unchecked power of the prosecutor as a driving force in America's mass incarceration crisis—and charts a way out.

“An important, thoughtful, and thorough examination of criminal justice in America that speaks directly to how we reduce mass incarceration.”—Bryan Stevenson, author of Just Mercy

Citizens United for Rehabilitation of Errants– Virginia, Inc.
Virginia CURE
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Vienna, Virginia, 22183

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Join Virginia CURE today and become a part of the effort to work for criminal justice reform and safety in our communities. Send dues payment to:

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Dues are payable January 1 on a yearly, non-prorated basis for current year. Prisoner members need to include state number on all communications to CURE.

Remember to send address changes.

Check type of membership

- Prisoner* \$ 2.00
- Individual \$ 20.00
- Family \$ 25.00
- Sustaining \$ 50.00
- Organization \$100.00
- Life \$100.00
- Renewal

Please make checks payable to **Virginia CURE**. Contributions are tax deductible under the provisions of 501(c)(3), Internal Revenue Code.

*Prisoners may send five stamps.

Please feel free to reproduce this application

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street/or p.o. apt.

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e-mail _____ prisoner birthday _____

phone day () evening ()

fax () _____

Involvement: prisoner family friend professional volunteer

other _____ Institution _____

please specify

Virginia CURE invites prisoners to submit original articles, poetry and artwork for consideration for publication. Virginia CURE reserves the right to edit submissions accepted for publication.

Virginia CURE will not return submissions unless prior arrangements are made. Send submissions to: Newsletter Editor, Virginia CURE, P.O. Box 2310, Vienna, Virginia 22183

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