



## **Bill Summary: Conditional Release for Terminally Ill Prisoners SB 5018, Sen. John Bell**

**Bill Purpose:** If passed, SB 5018 would allow some terminally ill prisoners with an end-of-life trajectory of 12 months to petition for conditional release.

**Bill Status:** *This bill is not a law yet.* To become law, this bill must go through the committee process, pass through both the Senate and House, and be signed by the governor.

**What does the bill would do?** Under current law, people who are terminally ill may be considered for executive medical clemency if their death is imminent, meaning they have three months or less to live. This is currently the only way that terminally ill people in prison may obtain release. SB 5018 would make terminally ill people eligible for conditional release, which is currently limited to elderly prisoners and granted by the parole board, without requiring the governor to grant clemency. The bill defines a terminal illness as “a chronic or progressive medical condition caused by injury, disease, or illness where the medical prognosis is the person’s death within 12 months.” This bill, if passed, could help more terminally ill people be considered for release, since medical clemency is limited to few people and very rarely used by governors.

**Are there any exclusions? Yes. Terminally ill prisoners serving a sentence for the following offenses are excluded:**

1. Class 1 felony;
2. Solicitation to commit murder under § 18.2-29 (criminal solicitation; penalty) or any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or 18.2-33 (pertaining to certain homicide crimes);
3. Any violation of § 18.2-40 or 18.2-45 (pertaining to lynching and mob-attempted lynching);
4. Any violation of subsection A of § 18.2-46.5, of subsection D of § 18.2-46.5 if the death of any person results from providing any material support (pertaining to committing, conspiring and aiding and abetting acts of terrorism), or of subsection A of § 18.2-46.6 (pertaining to possession, manufacture, distribution, etc. of weapon of terrorism or hoax device);
5. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2;
6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, any violation of § 18.2-51.6 (strangulation of another) or 18.2-51.7 (female genital mutilation), or any felony violation of § 18.2-57.2 (assault and battery against a family or household member);
7. Any felony violation of § 18.2-60.3 (stalking);
8. Any felony violation of § 16.1-253.2 or 18.2-60.4 (pertaining to violation of provisions of protective orders);
9. Robbery under § 18.2-58 or carjacking under § 18.2-58.1;
10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
11. Any violation of § 18.2-90 (entering dwelling house, etc., with intent to commit murder, rape, robbery or arson), 18.2-91 (entering dwelling house, etc., with intent to commit larceny, assault and battery or other felony), or 18.2-93 (entering bank, armed, with intent to commit larceny);



12. Any violation of § 18.2-289 (use of machine gun for crime of violence) or subsection A of § 18.2-300 (possession or use of "sawed-off" shotgun or rifle);
13. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2 (prostitution; commercial sexual conduct; commercial exploitation of a minor);
14. Any felony offense in Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2 (pertaining to certain family offenses; crimes against children), except for a violation of § 18.2-362 (pertaining to bigamy) or subsection B of § 18.2-371.1 (pertaining to reckless disregard for human life by a parent, guardian, or other person responsible for the care of a child under the age of 18);
15. Any felony offense in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 (pertaining to crimes involving morals and decency), except for a violation of subsection A of § 18.2-374.1:1 (knowingly possessing child pornography);
16. Any violation of subsection F of § 3.2-6570 (pertaining to death of dog or cat that is a companion animal as a result of torture or physical mistreatment), any felony violation of § 18.2-128 (pertaining to trespass upon church or school property with intent to abduct a student), or any violation of § 18.2-481 (definitions of treason), 37.2-917 (pertaining to escape of person committed to custody as a sexually violent predator), 37.2-918 (pertaining to sexually violent predator on conditional release leaving the Commonwealth), 40.1-100.2 (employment involving sexually explicit visual material, pertaining to minors), or 40.1-103 (cruelty and injuries to children); or
17. A second or subsequent violation of the following offenses, in any combination, when the offenses were not part of a common act, transaction, or scheme:
  - Any felony violation of § 3.2-6571 (pertaining to animal fighting);
  - 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;
  - Any violation of § 18.2-41 (shooting, stabbing, etc., with intent to maim, kill, etc., by mob) or felony violation of § 18.2-42.1 (acts of violence by mob);
  - Any violation of subsection B, C, or D of § 18.2-46.5 (pertaining to certain acts of Committing, conspiring and aiding and abetting acts of terrorism prohibited) or § 18.2-46.7 (act of bioterrorism against agricultural crops or animals);
  - Any violation of § 18.2-51 (shooting, stabbing, etc., with intent to maim, kill when done unlawfully but not maliciously, § 18.2-51.1 (malicious bodily injury to law-enforcement officers, firefighters, search and rescue personnel, or emergency medical services personnel) when done unlawfully but not maliciously, or § 18.2-54.1 (attempts to poison) or 18.2- 54.2 (adulteration of food, drink, drugs, cosmetics, etc.);
  - Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79 (burning or destroying meeting house, etc.);
  - Any violation of § 18.2-89 (burglary) or 18.2-92 (breaking and entering dwelling house with intent to commit other misdemeanor);
  - Any violation of subsection A of § 18.2-374.1:1 (possession, reproduction, distribution, solicitation, and facilitation of child pornography);
  - Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, all of which pertain to displaying items or symbols in certain places with the intent to intimidate, or 18.2-433.2 (pertaining to prohibited paramilitary activity); or
  - Any violation of subdivision E 2 of § 40.1-29 (pertaining to failing to pay wages of \$10,000 or more with the intent to defraud).