

1 HOUSE BILL NO. 457  
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE  
 3 (Proposed by the House Committee for Courts of Justice  
 4 on \_\_\_\_\_)  
 5 (Patron Prior to Substitute--Delegate Callsen)

6 A BILL to amend and reenact § 19.2-304 of the Code of Virginia, relating to decreasing probation period;  
 7 criteria for mandatory reduction.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That § 19.2-304 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 19.2-304. Increasing or decreasing probation period and modification of conditions;**  
 11 **mandatory reduction in probation period.**

12 A. The court may subsequently increase or decrease the probation period and may revoke or  
 13 modify any condition of probation, but only upon a hearing after reasonable notice to both the defendant  
 14 and the attorney for the Commonwealth. After fixing the probation period, the court may subsequently  
 15 decrease the probation period without a hearing if warranted by the defendant's conduct and in the interests  
 16 of justice.

17 B. The court shall reduce a defendant's supervised probation period if:

18 1. The defendant completes a qualifying educational activity, including obtaining a high school  
 19 diploma, passing high school equivalency testing, completing 15 credit hours with at least a 2.0 grade  
 20 point average at a postsecondary educational institution, obtaining an academic degree, completing a peer  
 21 recovery specialist training program approved by the Department of Behavioral Health and  
 22 Developmental Services, completing a state-certified training program, or completing a vocational or job  
 23 training program made available by the Department of Corrections or by a community provider approved  
 24 by the Department of Corrections;

25 2. The defendant maintains verifiable employment where the defendant is employed at least an  
 26 average of 30 hours per week; or

27           3. The defendant is in compliance with any state-certified or state-approved mental health or  
28 substance abuse treatment program or successfully completes a state-certified or state-approved mental  
29 health or substance abuse treatment program.

30           C. A defendant shall not begin accruing credit for any educational activity, employment, or  
31 treatment program described in subsection B until the first day of the first full month that such defendant  
32 is on supervised probation. A defendant may accrue credits from each of subdivisions B 1, 2, and 3 in  
33 each six-month reporting period. Such credits shall not accrue during any calendar month in which the  
34 defendant is found in violation of his supervised probation, unless such violation is a technical violation  
35 and the probation officer for such defendant determines that there exists a compelling reason to award  
36 credits for such period of time. For every six-month period of qualifying educational activity the defendant  
37 completes in accordance with subdivision B 1, the court shall reduce the defendant's supervised probation  
38 period by 60 days. For every six-month period of verifiable employment the defendant completes in  
39 accordance with subdivision B 2, the court shall reduce the defendant's supervised probation period by 30  
40 days. For every six-month period of qualifying mental health or substance abuse treatment program  
41 compliance or for completion of a qualifying mental health or substance abuse treatment program in  
42 accordance with subdivision B 3, the court shall reduce the defendant's supervised probation period by 60  
43 days.

44           A defendant's probation officer shall promptly and no less than quarterly calculate any reductions  
45 to such defendant's supervised probation for any qualifying evidence-based recidivism-reducing activities,  
46 including completing qualifying educational activities, maintaining verifiable employment, and  
47 completing or complying with any state-certified or state-approved mental health or substance abuse  
48 treatment program under this subsection. A defendant's probation officer shall verify employment through  
49 supporting documentation, which may include any record, employer letter, pay stub, contract, or other  
50 approved method of verification by the probation services agency or the Department of Corrections. A  
51 defendant's probation officer shall verify the education and vocation compliance or completion through  
52 supporting documentation, which may include any record, facilitator or program letter, report card,  
53 progress report, or other approved method of verification by the probation services agency or Department

54 of Corrections. A defendant's probation officer shall verify the mental health or substance abuse treatment  
55 program compliance or completion through supporting documentation, which may include any record,  
56 facilitator or program letter, progress report, sign-in sheet, or other approved method of verification by  
57 the probation services agency or the Department of Corrections. A decision by the defendant's probation  
58 officer regarding the qualification of any educational activity, employment, or treatment program  
59 described in subsection B is final.

60 When the accumulation of time served on probation and any earned reduction is equal to the  
61 imposed supervised probation term, and the defendant has satisfied all nonmonetary conditions of his  
62 supervised probation, including any court-ordered programming or community service hours, the  
63 probation officer shall notify the court of the defendant's right to a reduction in his probation term under  
64 this subsection. Upon receipt of this information, the court shall enter an order discharging the person  
65 from supervised probation.

66 D. The provisions of this section shall not apply to any person sentenced pursuant to § 19.2-303.3  
67 and subject to supervised probation by a local community-based probation services agency established  
68 pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1.

69 E. No defendant shall have his probation reduced pursuant to this section for his participation in  
70 any court-ordered treatment.

71 F. Nothing in this section shall be construed to limit the court's ability to reduce a defendant's  
72 period of probation or discharge such defendant from probation under any other provision of law.

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