

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

HOUSE BILL NO. 345

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Watts)

A BILL to amend and reenact §§ 16.1-309.1, 18.2-46.1, 18.2-50.3, 18.2-90, 19.2-297.1, 53.1-40.02, 53.1-131.2, 53.1-151, 53.1-165.1, and 53.1-202.3, as it shall become effective, of the Code of Virginia, relating to robbery.

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

**1. That §§ 16.1-309.1, 18.2-46.1, 18.2-50.3, 18.2-90, 19.2-297.1, 53.1-40.02, 53.1-131.2, 53.1-151, 53.1-165.1, and 53.1-202.3, as it shall become effective, of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-309.1. Exception as to confidentiality.**

A. Notwithstanding any other provision of this article, where consideration of public interest requires, the judge shall make available to the public the name and address of a juvenile and the nature of the offense for which a juvenile has been adjudicated delinquent (i) for an act which would be a Class 1, 2, or 3 felony, forcible rape, ~~robbery~~ or burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 if committed by an adult or (ii) in any case where a juvenile is sentenced as an adult in circuit court.

B. 1. a. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth or, upon notice to the Commonwealth's attorney, the Department of Juvenile Justice or a locally operated court services unit, may, with notice to the juvenile's attorney of record, petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any

27 other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive  
28 and for good cause, the court shall order release of this information to the public. If a juvenile charged  
29 with a delinquent act that would constitute a felony if committed by an adult, or held in custody by a law-  
30 enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice  
31 at a time when the court is not in session, the Commonwealth's attorney, the Department of Juvenile  
32 Justice, or a locally operated court services unit may, with notice to the juvenile's attorney of record,  
33 authorize the public release of the juvenile's name, age, physical description and photograph, the charge  
34 for which he is sought, and any other information which may expedite his apprehension.

35       b. At any time prior to disposition, if a juvenile charged with a delinquent act which would  
36 constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or  
37 held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the  
38 Commonwealth may, with notice to the juvenile's attorney of record, petition the court having jurisdiction  
39 of the offense to authorize public release of the juvenile's name, age, physical description and photograph,  
40 the charge for which he is sought or for which he was adjudicated and any other information which may  
41 expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court  
42 shall order release of this information to the public. If a juvenile charged with a delinquent act that would  
43 constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or  
44 held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court  
45 is not in session, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record,  
46 authorize the public release of the juvenile's name, age, physical description and photograph, the charge  
47 for which he is sought, and any other information which may expedite his apprehension.

48       2. After final disposition, if a juvenile (i) found to have committed a delinquent act becomes a  
49 fugitive from justice or (ii) who has been committed to the Department of Juvenile Justice pursuant to  
50 subdivision 14 of § 16.1-278.8 or 16.1-285.1 becomes a fugitive from justice by escaping from a facility  
51 operated by or under contract with the Department or from the custody of any employee of such facility,  
52 the Department may release to the public the juvenile's name, age, physical description and photograph,  
53 the charge for which he is sought or for which he was committed, and any other information which may

54 expedite his apprehension. The Department shall promptly notify the attorney for the Commonwealth of  
55 the jurisdiction in which the juvenile was tried whenever information is released pursuant to this  
56 subdivision. If a juvenile specified in clause (i) being held after disposition in a secure facility not operated  
57 by or under contract with the Department becomes a fugitive by such escape, the attorney for the  
58 Commonwealth of the locality in which the facility is located may release the information as provided in  
59 this subdivision.

60 C. Whenever a juvenile 14 years of age or older is charged with a delinquent act that would be a  
61 criminal violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a felony involving a weapon,  
62 a felony violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an "act of violence" as  
63 defined in subsection A of § 19.2-297.1 if committed by an adult, the judge may, where consideration of  
64 the public interest requires, make the juvenile's name and address available to the public.

65 D. Upon the request of a victim of a delinquent act that would be a felony or that would be a  
66 misdemeanor violation of § 16.1-253.2, 18.2-57, 18.2-57.2, 18.2-60.3, 18.2-60.4, 18.2-67.4, or 18.2-67.5  
67 if committed by an adult, the court may order that such victim be informed of the charge or charges  
68 brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim"  
69 shall be defined as in § 19.2-11.01.

70 E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant  
71 to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been  
72 terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

73 F. Notwithstanding any other provision of law, a copy of any court order that imposes a curfew or  
74 other restriction on a juvenile may be provided to the chief law-enforcement officer of the county or city  
75 wherein the juvenile resides. The chief law-enforcement officer shall only disclose information contained  
76 in the court order to other law-enforcement officers in the conduct of official duties.

77 G. Notwithstanding any other provision of law, where consideration of public safety requires, the  
78 Department and locally operated court service unit shall release information relating to a juvenile's  
79 criminal street gang involvement, if any, and the criminal street gang-related activity and membership of  
80 others, as criminal street gang is defined in § 18.2-46.1, obtained from an investigation or supervision of

81 a juvenile and shall include the identity or identifying information of the juvenile; however, the  
 82 Department and local court service unit shall not release the identifying information of a juvenile not  
 83 affiliated with or involved in a criminal street gang unless that information relates to a specific criminal  
 84 act. Such information shall be released to any State Police, local police department, sheriff's office, or  
 85 law-enforcement task force that is a part of or administered by the Commonwealth or any political  
 86 subdivision thereof, and that is responsible for the prevention and detection of crime and the enforcement  
 87 of the penal, traffic, or highway laws of the Commonwealth. The exchange of information shall be for the  
 88 purpose of an investigation into criminal street gang activity.

89 H. Notwithstanding any other provision of Article 12 (§ 16.1-299 et seq.), a clerk of the court shall  
 90 report to the Bureau of Immigration and Customs Enforcement of the U.S. Department of Homeland  
 91 Security a juvenile who has been detained in a secure facility but only upon an adjudication of delinquency  
 92 or finding of guilt for a violent juvenile felony and when there is evidence that the juvenile is in the United  
 93 States illegally.

94 **§ 18.2-46.1. Definitions.**

95 As used in this article unless the context requires otherwise or it is otherwise provided:

96 "Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

97 "Criminal street gang" means any ongoing organization, association, or group of three or more  
 98 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the  
 99 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or  
 100 symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt  
 101 to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of  
 102 which is an act of violence, provided such acts were not part of a common act or transaction.

103 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42, 18.2-  
 104 46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55,  
 105 18.2-56.1, 18.2-57, 18.2-57.2, subdivision B 3 or 4 of § 18.2-58, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-  
 106 95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-  
 107 248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-

108 308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony  
109 violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 4.1-1101, 18.2-  
110 248, or 18.2-248.1 or a conspiracy to commit a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1;  
111 (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar  
112 offense under the laws of another state or territory of the United States, the District of Columbia, or the  
113 United States.

114 **§ 18.2-50.3. Enticing, etc., another into a dwelling house with intent to commit certain**  
115 **felonies; penalty.**

116 Any person who commits a violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-48, 18.2-51.2,  
117 subdivision B 1 or 2 of § 18.2-58, 18.2-61, 18.2-67.1, or 18.2-67.2 within a dwelling house and who, with  
118 the intent to commit a felony listed in this section, enticed, solicited, requested, or otherwise caused the  
119 victim to enter such dwelling house is guilty of a Class 6 felony. A violation of this section is a separate  
120 and distinct felony.

121 **§ 18.2-90. Entering dwelling house, etc., with intent to commit murder, rape, robbery or**  
122 **arson; penalty.**

123 If any person in the nighttime enters without breaking or in the daytime breaks and enters or enters  
124 and conceals himself in a dwelling house or an adjoining, occupied outhouse or in the nighttime enters  
125 without breaking or at any time breaks and enters or enters and conceals himself in any building  
126 permanently affixed to realty, or any ship, vessel, or river craft or any railroad car, or any automobile,  
127 truck, or trailer, if such automobile, truck, or trailer is used as a dwelling or place of human habitation,  
128 with intent to commit murder, rape, robbery in violation of subdivision B 1 or 2 of § 18.2-58, or arson in  
129 violation of ~~§§~~ § 18.2-77, 18.2-79, or § 18.2-80, he shall be deemed guilty of statutory burglary, which  
130 offense shall be a Class 3 felony. However, if such person was armed with a deadly weapon at the time of  
131 such entry, he shall be guilty of a Class 2 felony.

132 **§ 19.2-297.1. Sentence of person twice previously convicted of certain violent felonies.**

133 A. Any person convicted of two or more separate acts of violence when such offenses were not  
134 part of a common act, transaction or scheme, and who has been at liberty as defined in § 53.1-151 between

135 each conviction, shall, upon conviction of a third or subsequent act of violence, be sentenced to life  
136 imprisonment and shall not have all or any portion of the sentence suspended, provided it is admitted, or  
137 found by the jury or judge before whom he is tried, that he has been previously convicted of two or more  
138 such acts of violence. For the purposes of this section, "act of violence" means (i) any one of the following  
139 violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2:

- 140 a. First and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.);
  - 141 b. Mob-related felonies under Article 2 (§ 18.2-38 et seq.);
  - 142 c. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.);
  - 143 d. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et  
144 seq.);
  - 145 e. Robbery under subdivision B 1 or 2 of § 18.2-58 and carjacking under § 18.2-58.1;
  - 146 f. Except as otherwise provided in § 18.2-67.5:2 or § 18.2-67.5:3, criminal sexual assault  
147 punishable as a felony under Article 7 (§ 18.2-61 et seq.); or
  - 148 g. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony  
149 violation of § 18.2-79.
- 150 (ii) conspiracy to commit any of the violations enumerated in clause (i) of this section; and (iii)  
151 violations as a principal in the second degree or accessory before the fact of the provisions enumerated in  
152 clause (i) of this section.

153 B. Prior convictions shall include convictions under the laws of any state or of the United States  
154 for any offense substantially similar to those listed under "act of violence" if such offense would be a  
155 felony if committed in the Commonwealth.

156 The Commonwealth shall notify the defendant in writing, at least thirty days prior to trial, of its  
157 intention to seek punishment pursuant to this section.

158 C. Any person sentenced to life imprisonment pursuant to this section shall not be eligible for  
159 parole and shall not be eligible for any good conduct allowance or any earned sentence credits under  
160 Chapter 6 (§ 53.1-186 et seq.) of Title 53.1. However, any person subject to the provisions of this section,  
161 other than a person who was sentenced under subsection A of § 18.2-67.5:3 for criminal sexual assault

162 convictions specified in subdivision f, (i) who has reached the age of sixty-five or older and who has  
163 served at least five years of the sentence imposed or (ii) who has reached the age of sixty or older and who  
164 has served at least ten years of the sentence imposed may petition the Parole Board for conditional release.  
165 The Parole Board shall promulgate regulations to implement the provisions of this subsection.

166 **§ 53.1-40.02. Conditional release of terminally ill prisoners.**

167 A. As used in this section, "terminally ill" means having a chronic or progressive medical condition  
168 caused by injury, disease, or illness where the medical prognosis is the person's death within 12 months.

169 B. Any person serving a sentence imposed upon a conviction for a felony offense, except as  
170 provided in subsection C, who is terminally ill may petition the Parole Board for conditional release.

171 C. A person who is terminally ill and is serving a sentence imposed upon a conviction for one of  
172 the following offenses shall not be eligible to petition the Parole Board for conditional release:

173 1. A Class 1 felony;

174 2. Any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or 18.2-33;

175 3. Any violation of § 18.2-40 or 18.2-45;

176 4. Any violation of § 18.2-46.5, subsection A or B of § 18.2-46.6, or § 18.2-46.7;

177 5. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title  
178 18.2, except for a violation of § 18.2-49.1;

179 6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et  
180 seq.) of Chapter 4 of Title 18.2, any violation of § 18.2-51.7, 18.2-54.1, or 18.2-54.2, or any felony  
181 violation of § 18.2-57.2;

182 7. Any felony violation of § 18.2-60.3;

183 8. Any felony violation of § 16.1-253.2 or 18.2-60.4;

184 9. Robbery under subdivision B 1 or 2 of § 18.2-58 or carjacking under § 18.2-58.1;

185 10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4  
186 of Title 18.2, except, when not committed against a minor, a violation of subdivision A 5 of § 18.2-67.3,  
187 § 18.2-67.4:1, subsection B of § 18.2-67.5, or § 18.2-67.5:1;

188 11. Any violation of § 18.2-90 or 18.2-93;

- 189 12. Any violation of § 18.2-289 or subsection A of § 18.2-300;
- 190 13. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2 involving a  
191 minor victim;
- 192 14. Any felony offense in Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2 involving a  
193 minor victim, except for a violation of § 18.2-362 or 18.2-370.5 or subsection B of § 18.2-371.1;
- 194 15. Any felony offense in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 involving a  
195 minor victim, except for a violation of subsection A of § 18.2-374.1:1;
- 196 16. Any violation of § 18.2-481, 40.1-100.2, or 40.1-103; or
- 197 17. A second or subsequent felony violation of the following offenses when such offenses were  
198 not part of a common act, transaction, or scheme and such person has been at liberty as defined in § 53.1-  
199 151 between each conviction:
- 200 a. Voluntary or involuntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title  
201 18.2 or any crime punishable as such;
- 202 b. Any violation of § 18.2-41 or 18.2-42.1;
- 203 c. Any violation of subsection C of § 18.2-46.6;
- 204 d. Any violation when done unlawfully but not maliciously of § 18.2-51 or 18.2-51.1;
- 205 e. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony  
206 violation of § 18.2-79;
- 207 f. Any violation of § 18.2-89 with the intent to commit any larceny or § 18.2-92;
- 208 g. Any violation of subsection A of § 18.2-374.1:1;
- 209 h. Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; or
- 210 i. Any violation of subdivision E 2 of § 40.1-29.
- 211 D. The Parole Board shall promulgate regulations to implement the provisions of this section.
- 212 **§ 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray**  
213 **costs; escape; penalty.**
- 214 A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic  
215 offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20, or failure to pay child support pursuant



216 to a court order may, if the defendant is convicted and sentenced to confinement in a state or local  
217 correctional facility, and if it appears to the court that such an offender is a suitable candidate for  
218 home/electronic incarceration, assign the offender to a home/electronic incarceration program as a  
219 condition of probation, if such program exists, under the supervision of the sheriff, the administrator of a  
220 local or regional jail, or a Department of Corrections probation and parole district office established  
221 pursuant to § 53.1-141. However, any offender who is convicted of any of the following violations of  
222 Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 shall not be eligible for participation in the home/electronic  
223 incarceration program: (i) first and second degree murder and voluntary manslaughter under Article 1 (§  
224 18.2-30 et seq.); (ii) mob-related felonies under Article 2 (§ 18.2-38 et seq.); (iii) any kidnapping or  
225 abduction felony under Article 3 (§ 18.2-47 et seq.); (iv) any malicious felonious assault or malicious  
226 bodily wounding under Article 4 (§ 18.2-51 et seq.); (v) robbery under subdivision B 1 or 2 of § 18.2-58  
227 or carjacking under § 18.2-58.1; or (vi) any criminal sexual assault punishable as a felony under Article 7  
228 (§ 18.2-61 et seq.). The court may further authorize the offender's participation in work release  
229 employment or educational or other rehabilitative programs as defined in § 53.1-131 or, as appropriate, in  
230 a court-ordered intensive case monitoring program for child support. The court shall be notified in writing  
231 by the director or administrator of the program to which the offender is assigned of the offender's place of  
232 home/electronic incarceration, place of employment, and the location of any educational or rehabilitative  
233 program in which the offender participates.

234 B. In any city or county in which a home/electronic incarceration program established pursuant to  
235 this section is available, the court, subject to approval by the sheriff or the jail superintendent of a local or  
236 regional jail, may assign the accused to such a program pending trial if it appears to the court that the  
237 accused is a suitable candidate for home/electronic incarceration.

238 C. Any person who has been sentenced to jail or convicted and sentenced to confinement in prison  
239 but is actually serving his sentence in jail, after notice to the attorney for the Commonwealth of the  
240 convicting jurisdiction, may be assigned by the sheriff to a home/electronic incarceration program under  
241 the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections  
242 probation and parole office established pursuant to § 53.1-141. However, if the offender violates any

243 provision of the terms of the home/electronic incarceration agreement, the offender may have the  
244 assignment revoked and, if revoked, shall be held in the jail facility to which he was originally sentenced.  
245 Such person shall be eligible if his term of confinement does not include a sentence for a conviction of a  
246 felony violent crime, a felony sexual offense, burglary or manufacturing, selling, giving, distributing or  
247 possessing with the intent to manufacture, sell, give or distribute a Schedule I or Schedule II controlled  
248 substance. The court shall retain authority to remove the offender from such home/electronic incarceration  
249 program. The court which sentenced the offender shall be notified in writing by the sheriff or the  
250 administrator of a local or regional jail of the offender's place of home/electronic incarceration and place  
251 of employment or other rehabilitative program.

252 D. The Board may prescribe regulations to govern home/electronic incarceration programs, and  
253 the Director may prescribe rules to govern home/electronic incarceration programs operated under the  
254 supervision of a Department of Corrections probation and parole district office established pursuant to §  
255 53.1-141.

256 E. Any offender or accused assigned to such a program by the court or sheriff who, without proper  
257 authority or just cause, leaves his place of home/electronic incarceration, the area to which he has been  
258 assigned to work or attend educational or other rehabilitative programs, including a court-ordered  
259 intensive case monitoring program for child support, or the vehicle or route of travel involved in his going  
260 to or returning from such place, is guilty of a Class 1 misdemeanor. An offender or accused who is found  
261 guilty of a violation of this section shall be ineligible for further participation in a home/electronic  
262 incarceration program during his current term of confinement.

263 F. The director or administrator of a home/electronic incarceration program who also operates a  
264 residential program may remove an offender from a home/electronic incarceration program and place him  
265 in such residential program if the offender commits a noncriminal program violation. The court shall be  
266 notified of the violation and of the placement of the offender in the residential program.

267 G. The director or administrator of a home/electronic incarceration program may charge the  
268 offender or accused a fee for participating in the program which shall be used for the cost of  
269 home/electronic incarceration equipment. The offender or accused shall be required to pay the program

270 for any damage to the equipment which is in his possession or for failure to return the equipment to the  
271 program.

272 H. Any wages earned by an offender or accused assigned to a home/electronic incarceration  
273 program and participating in work release shall be paid to the director or administrator after standard  
274 payroll deductions required by law. Distribution of the money collected shall be made in the following  
275 order of priority to:

276 1. Meet the obligation of any judicial or administrative order to provide support and such funds  
277 shall be disbursed according to the terms of such order;

278 2. Pay any fines, restitution or costs as ordered by the court;

279 3. Pay travel and other such expenses made necessary by his work release employment or  
280 participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and

281 4. Defray the offender's keep.

282 The balance shall be credited to the offender's account or sent to his family in an amount the  
283 offender so chooses.

284 The State Board of Local and Regional Jails shall promulgate regulations governing the receipt of  
285 wages paid to persons participating in such programs, except programs operated under the supervision of  
286 a Department of Corrections probation and parole district office established pursuant to § 53.1-141, the  
287 withholding of payments, and the disbursement of appropriate funds. The Director shall prescribe rules  
288 governing the receipt of wages paid to persons participating in such programs operated under the  
289 supervision of a Department of Corrections probation and parole district office established pursuant to §  
290 53.1-141, the withholding of payments, and the disbursement of appropriate funds.

291 I. For the purposes of this section, "sheriff" means the sheriff of the jurisdiction where the person  
292 charged with the criminal offense was convicted and sentenced, provided that the sheriff may designate a  
293 deputy sheriff or regional jail administrator to assign offenders to home/electronic incarceration programs  
294 pursuant to this section.

295 **§ 53.1-151. Eligibility for parole.**

296 A. Except as herein otherwise provided, every person convicted of a felony and sentenced and  
297 committed by a court under the laws of this Commonwealth to the Department of Corrections, whether or  
298 not such person is physically received at a Department of Corrections facility, or as provided for in § 19.2-  
299 308.1:

300 1. For the first time, shall be eligible for parole after serving one-fourth of the term of imprisonment  
301 imposed, or after serving twelve years of the term of imprisonment imposed if one-fourth of the term of  
302 imprisonment imposed is more than twelve years;

303 2. For the second time, shall be eligible for parole after serving one-third of the term of  
304 imprisonment imposed, or after serving thirteen years of the term of imprisonment imposed if one-third  
305 of the term of imprisonment imposed is more than thirteen years;

306 3. For the third time, shall be eligible for parole after serving one-half of the term of imprisonment  
307 imposed, or after serving fourteen years of the term of imprisonment imposed if one-half of the term of  
308 imprisonment imposed is more than fourteen years;

309 4. For the fourth or subsequent time, shall be eligible for parole after serving three-fourths of the  
310 term of imprisonment imposed, or after serving fifteen years of the term of imprisonment imposed if three-  
311 fourths of the term of imprisonment imposed is more than fifteen years.

312 For the purposes of subdivisions 2, 3 and 4 of subsection A and for the purposes of subsections B1  
313 and B2, prior commitments shall include commitments to any correctional facility under the laws of any  
314 state, the District of Columbia, the United States or its territories for murder, rape, robbery, forcible  
315 sodomy, animate or inanimate object sexual penetration, aggravated sexual battery, abduction,  
316 kidnapping, burglary, felonious assault or wounding, or manufacturing, selling, giving, distributing or  
317 possessing with the intent to manufacture, sell, give or distribute a controlled substance, if such would be  
318 a felony if committed in the Commonwealth. Only prior commitments interrupted by a person's being at  
319 liberty, or resulting from the commission of a felony while in a correctional facility of the Commonwealth,  
320 of any other state or of the United States, shall be included in determining the number of times such person  
321 has been convicted, sentenced and committed for the purposes of subdivisions 2, 3 and 4 of subsection A.  
322 "At liberty" as used herein shall include not only freedom without any legal restraints, but shall also

323 include release pending trial, sentencing or appeal, or release on probation or parole or escape. In the case  
324 of terms of imprisonment to be served consecutively, the total time imposed shall constitute the term of  
325 the imprisonment; in the case of terms of imprisonment to be served concurrently, the longest term  
326 imposed shall be the term of imprisonment. In any case in which a parolee commits an offense while on  
327 parole, only the sentence imposed for such offense and not the sentence or sentences or any part thereof  
328 from which he was paroled shall constitute the term of imprisonment.

329         The Department of Corrections shall make all reasonable efforts to determine prior convictions  
330 and commitments of each inmate for the enumerated offenses.

331         B. Persons sentenced to die shall not be eligible for parole. Any person sentenced to life  
332 imprisonment who escapes from a correctional facility or from any person in charge of his custody shall  
333 not be eligible for parole.

334         B1. Any person convicted of three separate felony offenses of (i) murder, (ii) rape<sub>2</sub> or (iii) robbery  
335 by the presenting of firearms or other deadly weapon or that causes serious bodily injury to or the death  
336 of another, or any combination of the offenses specified in subdivisions (i), (ii)<sub>2</sub> or (iii) when such offenses  
337 were not part of a common act, transaction<sub>2</sub> or scheme shall not be eligible for parole. In the event of a  
338 determination by the Department of Corrections that an individual is not eligible for parole under this  
339 subsection, the Parole Board may in its discretion, review that determination, and make a determination  
340 for parole eligibility pursuant to regulations promulgated by it for that purpose. Any determination of the  
341 Parole Board of parole eligibility thereby shall supersede any prior determination of parole ineligibility  
342 by the Department of Corrections under this subsection.

343         B2. Any person convicted of three separate felony offenses of manufacturing, selling, giving,  
344 distributing or possessing with the intent to manufacture, sell, give or distribute a controlled substance,  
345 when such offenses were not part of a common act, transaction or scheme, and who has been at liberty as  
346 defined in this section between each conviction, shall not be eligible for parole.

347         C. Any person sentenced to life imprisonment for the first time shall be eligible for parole after  
348 serving fifteen years, except that if such sentence was for a Class 1 felony violation or the first degree

349 murder of a child under the age of eight in violation of § 18.2-32, he shall be eligible for parole after  
350 serving twenty-five years, unless he is ineligible for parole pursuant to subsection B1 or B2.

351 D. A person who has been sentenced to two or more life sentences, except a person to whom the  
352 provisions of subsection B1, B2, or E of this section are applicable, shall be eligible for parole after serving  
353 twenty years of imprisonment, except that if either such sentence, or both, was or were for a Class 1 felony  
354 violation, and he is not otherwise ineligible for parole pursuant to subsection B1, B2, or E of this section,  
355 he shall be eligible for parole only after serving thirty years.

356 E. A person convicted of an offense and sentenced to life imprisonment after being paroled from  
357 a previous life sentence shall not be eligible for parole.

358 E1. Any person who has been convicted of murder in the first degree, rape in violation of § 18.2-  
359 61, forcible sodomy, animate or inanimate object sexual penetration or aggravated sexual battery and who  
360 has been sentenced to a term of years shall, upon a first commitment to the Department of Corrections, be  
361 eligible for parole after serving two-thirds of the term of imprisonment imposed or after serving fourteen  
362 years of the term of imprisonment imposed if two-thirds of the term of imprisonment imposed is more  
363 than fourteen years. If such person has been previously committed to the Department of Corrections, such  
364 person shall be eligible for parole after serving three-fourths of the term of imprisonment imposed or after  
365 serving fifteen years of the terms of imprisonment imposed if three-fourths of the term of imprisonment  
366 imposed is more than fifteen years.

367 F. If the sentence of a person convicted of a felony and sentenced to the Department is partially  
368 suspended, he shall be eligible for parole based on the portion of such sentence execution which was not  
369 suspended.

370 G. The eligibility time for parole as specified in subsections A, C and D of this section may be  
371 modified as provided in §§ 53.1-191, 53.1-197 and 53.1-198.

372 H. The time for eligibility for parole as specified in subsection D of this section shall apply only  
373 to those criminal acts committed on or after July 1, 1976.

374 I. The provisions of subdivisions 2, 3 and 4 of subsection A shall apply only to persons committed  
375 to the Department of Corrections on or after July 1, 1979, but such persons' convictions and commitments

376 shall include all felony convictions and commitments without regard to the date of such convictions and  
377 commitments.

378 **§ 53.1-165.1. Limitation on the application of parole statutes.**

379 A. The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence  
380 imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after  
381 January 1, 1995. Any person sentenced to a term of incarceration for a felony offense committed on or  
382 after January 1, 1995, shall not be eligible for parole upon that offense.

383 B. The provisions of this article shall apply to any person who was sentenced by a jury prior to  
384 June 9, 2000, for any felony offense committed on or after January 1, 1995, and who remained incarcerated  
385 for such offense on July 1, 2020, other than (i) a Class 1 felony or (ii) any of the following felony offenses  
386 where the victim was a minor: (a) rape in violation of § 18.2-61; (b) forcible sodomy in violation of §  
387 18.2-67.1; (c) object sexual penetration in violation of § 18.2-67.2; (d) aggravated sexual battery in  
388 violation of § 18.2-67.3; (e) an attempt to commit a violation of clause (a), (b), (c), or (d); or (f) carnal  
389 knowledge in violation of § 18.2-63, 18.2-64.1, or 18.2-64.2.

390 C. The Parole Board shall establish procedures for consideration of parole of persons entitled under  
391 ~~subsection~~ subsections B or F consistent with the provisions of § 53.1-154.

392 D. Any person who meets eligibility criteria for parole under subsection B and pursuant to § 53.1-  
393 151 as of July 1, 2020, shall be scheduled for a parole interview no later than July 1, 2021, allowing for  
394 extension of time for reasonable cause.

395 E. Notwithstanding the provisions of subsection A or any other provision of this article to the  
396 contrary, any person sentenced to a term of life imprisonment for a single felony or multiple felonies  
397 committed while the person was a juvenile and who has served at least 20 years of such sentence shall be  
398 eligible for parole and any person who has active sentences that total more than 20 years for a single felony  
399 or multiple felonies committed while the person was a juvenile and who has served at least 20 years of  
400 such sentences shall be eligible for parole. The Board shall review and decide the case of each prisoner  
401 who is eligible for parole in accordance with § 53.1-154 and rules adopted pursuant to subdivision 2 of §  
402 53.1-136.

403 F. Notwithstanding the provisions of subsection C of § 19.2-297.1, the provisions of this article  
404 shall apply to any person who was sentenced to a term of life imprisonment pursuant to § 19.2-297.1  
405 where (i) at least one of the acts of violence committed by such person upon which the life sentence was  
406 predicated was for robbery in violation of § 18.2-58 committed prior to July 1, 2022, and (ii) such person,  
407 during the commission of such robbery, did not (a) cause serious bodily injury to or the death of another  
408 person, (b) use or display a firearm in a threatening manner, or (c) use physical force or use or display a  
409 deadly weapon other than a firearm in a threatening manner.

410 **§ 53.1-202.3. (Effective July 1, 2022) Rate at which sentence credits may be earned;**  
411 **prerequisites.**

412 A. A maximum of 4.5 sentence credits may be earned for each 30 days served on a sentence for a  
413 conviction for any offense of:

414 1. A Class 1 felony;

415 2. Solicitation to commit murder under § 18.2-29 or any violation of § 18.2-32, 18.2-32.1, 18.2-  
416 32.2, or 18.2-33;

417 3. Any violation of § 18.2-40 or 18.2-45;

418 4. Any violation of subsection A of § 18.2-46.5, of subsection D of § 18.2-46.5 if the death of any  
419 person results from providing any material support, or of subsection A of § 18.2-46.6;

420 5. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title  
421 18.2;

422 6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et  
423 seq.) of Chapter 4 of Title 18.2, any violation of § 18.2-51.6 or 18.2-51.7, or any felony violation of §  
424 18.2-57.2;

425 7. Any felony violation of § 18.2-60.3;

426 8. Any felony violation of § 16.1-253.2 or 18.2-60.4;

427 9. Robbery under subdivision B 1 or 2 of § 18.2-58 or carjacking under § 18.2-58.1;

428 10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4  
429 of Title 18.2;



- 430 11. Any violation of § 18.2-90;
- 431 12. Any violation of § 18.2-289 or subsection A of § 18.2-300;
- 432 13. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2;
- 433 14. Any felony offense in Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2, except for a  
434 violation of § 18.2-362 or subsection B of § 18.2-371.1;
- 435 15. Any felony offense in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, except for a  
436 violation of subsection A of § 18.2-374.1:1;
- 437 16. Any violation of subsection F of § 3.2-6570, any felony violation of § 18.2-128, or any  
438 violation of § 18.2-481, 37.2-917, 37.2-918, 40.1-100.2, or 40.1-103; or
- 439 17. A second or subsequent violation of the following offenses, in any combination, when such  
440 offenses were not part of a common act, transaction, or scheme and such person has been at liberty as  
441 defined in § 53.1-151 between each conviction:
  - 442 a. Any felony violation of § 3.2-6571;
  - 443 b. Voluntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
  - 444 c. Any violation of § 18.2-41 or felony violation of § 18.2-42.1;
  - 445 d. Any violation of subsection B, C, or D of § 18.2-46.5 or § 18.2-46.7;
  - 446 e. Any violation of § 18.2-51 when done unlawfully but not maliciously, § 18.2-51.1 when done  
447 unlawfully but not maliciously, or § 18.2-54.1 or 18.2-54.2;
  - 448 f. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony  
449 violation of § 18.2-79;
  - 450 g. Any violation of § 18.2-89 or 18.2-92;
  - 451 h. Any violation of subsection A of § 18.2-374.1:1;
  - 452 i. Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; or
  - 453 j. Any violation of subdivision E 2 of § 40.1-29.
- 454 The earning of sentence credits shall be conditioned, in part, upon full participation in and  
455 cooperation with programs to which a person is assigned pursuant to § 53.1-32.1.

456 B. For any offense other than those enumerated in subsection A for which sentence credits may be  
457 earned, earned sentence credits shall be awarded and calculated using the following four-level  
458 classification system:

459 1. Level I. For persons receiving Level I sentence credits, 15 days shall be deducted from the  
460 person's sentence for every 30 days served. Level I sentence credits shall be awarded to persons who  
461 participate in and cooperate with all programs to which the person is assigned pursuant to § 53.1-32.1 and  
462 who have no more than one minor correctional infraction and no serious correctional infractions as  
463 established by the Department's policies or procedures.

464 2. Level II. For persons receiving Level II sentence credits, 7.5 days shall be deducted from the  
465 person's sentence for every 30 days served. Level II sentence credits shall be awarded to persons who  
466 participate in and cooperate with all programs, job assignments, and educational curriculums to which the  
467 person is assigned pursuant to § 53.1-32.1, but who require improvement in not more than one area as  
468 established by the Department's policies or procedures.

469 3. Level III. For persons receiving Level III sentence credits, 3.5 days shall be deducted from the  
470 person's sentence for every 30 days served. Level III sentence credits shall be awarded to persons who  
471 participate in and cooperate with all programs, job assignments, and educational curriculums to which the  
472 person is assigned pursuant to § 53.1-32.1, but who require significant improvement in two or more areas  
473 as established by the Department's policies or procedures.

474 4. Level IV. No sentence credits shall be awarded to persons classified in Level IV. A person will  
475 be classified in Level IV if that person willfully fails to participate in or cooperate with all programs, job  
476 assignments, and educational curriculums to which the person is assigned pursuant to § 53.1-32.1 or that  
477 person causes substantial security or operational problems at the correctional facility as established by the  
478 Department's policies or procedures.

479 C. A person's classification level under subsection B shall be reviewed at least once annually, and  
480 the classification level may be adjusted based upon that person's participation in and cooperation with  
481 programs, job assignments, and educational curriculums assigned pursuant to § 53.1-32.1. A person's  
482 classification and calculation of earned sentence credits shall not be lowered or withheld due to a lack of

483 programming, educational, or employment opportunities at the correctional facility at which the person is  
484 confined. Records from this review, including an explanation of the reasons why a person's classification  
485 level was or was not adjusted, shall be maintained in the person's correctional file.

486 D. A person's classification level under subsection B may be immediately reviewed and adjusted  
487 following removal from a program, job assignment, or educational curriculum that was assigned pursuant  
488 to § 53.1-32.1 for disciplinary or noncompliance reasons.

489 E. A person may appeal a reclassification determination under subsection C or D in the manner set  
490 forth in the grievance procedure established by the Director pursuant to his powers and duties as set forth  
491 in § 53.1-10.

492 F. For a juvenile sentenced to serve a portion of his sentence as a serious juvenile offender under  
493 § 16.1-285.1, consideration for earning sentence credits shall be conditioned, in part, upon full  
494 participation in and cooperation with programs afforded to the juvenile during that portion of the sentence.  
495 The Department of Juvenile Justice shall provide a report that describes the juvenile's adherence to the  
496 facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a  
497 serious juvenile offender under § 16.1-285.1.

498 G. Notwithstanding any other provision of law, no portion of any sentence credits earned shall be  
499 applied to reduce the period of time a person must serve before becoming eligible for parole upon any  
500 sentence.

501 **2. That any person convicted of robbery under § 18.2-58 of the Code of Virginia, as it was in effect**  
502 **prior to July 1, 2021, where such conviction would have rendered such person ineligible for**  
503 **conditional release pursuant to § 53.1-40.02 of the Code of Virginia, as amended by this act, shall**  
504 **be eligible for conditional release in accordance with the provisions of § 53.1-40.02 of the Code of**  
505 **Virginia, as amended by this act, provided that such person, during the commission of such robbery,**  
506 **did not (i) cause serious bodily injury to or the death of another person or (ii) use or display a**  
507 **firearm in a threatening manner.**

508 #