

HOUSE BILL NO. 2230

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Delegate Wampler)

A BILL to amend and reenact §§ 17.1-803, 19.2-295.2, 19.2-306.1, 19.2-306.2, 53.1-136, 53.1-145, 53.1-149, 53.1-157, 53.1-161, 53.1-162, 53.1-164, and 53.1-165 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-306.01, relating to revocation of postrelease supervision.

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-803, 19.2-295.2, 19.2-306.1, 19.2-306.2, 53.1-136, 53.1-145, 53.1-149, 53.1-157, 53.1-161, 53.1-162, 53.1-164, and 53.1-165 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-306.01 as follows:

§ 17.1-803. Powers and duties.

The Commission shall:

- 1. Develop, maintain and modify as may be deemed necessary, a proposed system of statewide discretionary sentencing guidelines for use in all felony cases which will take into account historical data, when available, concerning time actually served for various felony offenses committed prior to January 1, 1995, and sentences imposed for various felony offenses committed on or after January 1, 1995, and such other factors as may be deemed relevant to sentencing.
- 2. Prepare, periodically update, and distribute sentencing worksheets for the use of sentencing courts which, when used, will produce a recommended sentencing range for a felony offense in accordance with the discretionary sentencing guidelines established pursuant to subdivision 1.
- 3. Prepare, periodically update, and distribute a form for the use of sentencing courts which will assist such courts in recording the reason or reasons for any sentence imposed in a felony case which is greater or less than the sentence recommended by the discretionary sentencing guidelines.

27 4. Prepare guidelines for sentencing courts to use in determining appropriate candidates for
28 alternative sanctions which may include, but not be limited to (i) fines and day fines, (ii) boot camp
29 incarceration, (iii) local correctional facility incarceration, (iv) diversion center incarceration, (v)
30 detention center incarceration, (vi) home incarceration/electronic monitoring, (vii) day or evening
31 reporting, (viii) probation or postrelease supervision, (ix) intensive probation or postrelease supervision,
32 and (x) performance of community service.

33 5. Develop an offender risk assessment instrument for use in all felony cases, based on a study of
34 Virginia felons, that will be predictive of the relative risk that a felon will become a threat to public safety.

35 6. Apply the risk assessment instrument to offenders convicted of any felony that is not specified
36 in (i) subdivision 1, 2 or 3 of subsection A of § 17.1-805 or (ii) subsection C of § 17.1-805 under the
37 discretionary sentencing guidelines, and shall determine, on the basis of such assessment and with due
38 regard for public safety needs, the feasibility of achieving the goal of placing 25 percent of such offenders
39 in one of the alternative sanctions listed in subdivision 4. If the Commission so determines that achieving
40 the 25 percent or a higher percentage goal is feasible, it shall incorporate such goal into the discretionary
41 sentencing guidelines, to become effective on January 1, 1996. If the Commission so determines that
42 achieving the goal is not feasible, the Commission shall report that determination to the General Assembly,
43 the Governor and the Chief Justice of the Supreme Court of Virginia on or before December 1, 1995, and
44 shall make such recommendations as it deems appropriate.

45 7. Prepare, periodically update, and distribute a form for recording the reasons for, and outcomes
46 of, revocation hearings conducted in circuit courts pursuant to ~~§~~ §§ 19.2-306 and 19.2-306.01.

47 8. Develop, maintain, and modify as may be deemed necessary a system of statewide discretionary
48 sentencing guidelines for use in hearings conducted in circuit courts pursuant to ~~§~~ §§ 19.2-306 and 19.2-
49 306.01 in which the defendant is cited for violation of a condition or conditions of supervised probation
50 or postrelease supervision imposed as a result of a felony conviction. Such guidelines shall take into
51 account historical data for sentences imposed in such cases and such other factors as may be deemed
52 relevant to sentencing.

53 9. Monitor sentencing practices in felony cases throughout the Commonwealth, including the use
54 of the discretionary sentencing guidelines, and maintain a database containing the information obtained.

55 10. Monitor felony sentence lengths, crime trends, correctional facility population trends and
56 correctional resources and make recommendations regarding projected correctional facilities capacity
57 requirements and related correctional resource needs.

58 11. Study felony statutes in the context of judge-sentencing and jury-sentencing patterns as they
59 evolve after January 1, 1995, and make recommendations for the revision of general criminal offense
60 statutes to provide more specific offense definitions and more narrowly prescribed ranges of punishment.

61 12. Report upon its work and recommendations annually on or before December 1 to the General
62 Assembly, the Governor and the Chief Justice of the Supreme Court of Virginia. Such report shall include
63 any modifications to the discretionary sentencing guidelines adopted by the Commission pursuant to
64 subdivision 1 and shall be accompanied by a statement of the reasons for those modifications.

65 13. Perform such other functions as may be otherwise required by law or as may be necessary to
66 carry out the provisions of this chapter.

67 **§ 19.2-295.2. Postrelease supervision of felons sentenced for offenses committed on and after**
68 **January 1, 1995, and on and after July 1, 2000.**

69 A. At the time the court imposes sentence upon a conviction for any felony offense committed (i)
70 on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, in addition to any other
71 punishment imposed if such other punishment includes an active term of incarceration in a state or local
72 correctional facility, except in cases in which the court orders a suspended term of confinement of at least
73 six months, impose a term of incarceration, in addition to the active term, of not less than six months nor
74 more than three years, as the court may determine. Such additional term shall be suspended and the
75 defendant shall be ordered to be placed under postrelease supervision upon release from the active term
76 of incarceration. The period of supervision shall be established by the court; however, such period shall
77 not be less than six months nor more than three years. Periods of postrelease supervision imposed pursuant
78 to this section upon more than one felony conviction may be ordered to run concurrently. Periods of

79 postrelease supervision imposed pursuant to this section may be ordered to run concurrently with any
80 period of probation the defendant may also be subject to serve.

81 B. The period of postrelease supervision shall be under the supervision jurisdiction and review of
82 the ~~Virginia Parole Board. The Board shall review each felon prior to release and establish conditions of~~
83 ~~postrelease supervision. Failure to successfully abide by such terms and conditions shall be grounds to~~
84 ~~terminate the period of postrelease supervision and recommit the defendant to the Department of~~
85 ~~Corrections or to the local correctional facility from which he was previously released. Procedures for any~~
86 ~~such termination and recommitment shall be conducted in the same manner as procedures for the~~
87 ~~revocation of parole~~ circuit court that imposed the term of postrelease supervision. At the time of the
88 original imposition of any period of postrelease supervision, the sentencing judge shall require the felon
89 serving the period of postrelease supervision to comply with such terms and conditions as may be
90 prescribed by the circuit court and the probation and parole officer and to report to the probation and
91 parole office in the judicial circuit in which the term of postrelease supervision was imposed to sign
92 applicable conditions of postrelease supervision within 24 hours of the felon's release from incarceration.

93 C. Postrelease supervision programs shall be operated through the probation and parole districts
94 established pursuant to § 53.1-141. Failure to successfully abide by such terms and conditions as may be
95 prescribed by the circuit court and the probation and parole officer shall be grounds to terminate the period
96 of postrelease supervision and recommit the defendant to the Department of Corrections or to the local
97 correctional facility from which he was previously released. Procedures for any such termination and
98 recommitment shall be conducted in the manner prescribed by § 19.2-306.01.

99 In any case where a person who is released on postrelease supervision has been committed to the
100 Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-
101 900 et seq.) of Title 37.2, the conditions of his postrelease supervision shall include the requirement that
102 the person comply with all conditions imposed on him by the Department of Behavioral Health and
103 Developmental Services and that he follow all of the terms of his treatment plan.

104 D. Nothing in this section shall be construed to prohibit the court from exercising any authority
105 otherwise granted by law.

106 **§ 19.2-306.01. Revocation of term of postrelease supervision.**

107 A. Subject to the provisions of § 19.2-306.2, in any case in which the court has imposed a term of
108 postrelease supervision, the court may revoke the term of postrelease supervision for any cause the court
109 deems sufficient that occurs at any time within the supervision period.

110 B. The court shall not conduct a hearing to revoke the term of postrelease supervision unless the
111 court issues process to notify the accused or to compel his appearance before the court within 90 days of
112 receiving notice of the alleged violation or within one year after the expiration of the period of postrelease
113 supervision, whichever is sooner, or, in the case of a failure to pay restitution, within three years after such
114 expiration.

115 C. If the court, after a hearing, finds good cause to believe that the defendant has violated the terms
116 of suspension of the additional period of incarceration imposed pursuant to subsection A of § 19.2-295.2,
117 then the court may revoke the suspension and impose a sentence in accordance with the provisions of §
118 19.2-306.1. The court may again suspend all or any part of this sentence for a period up to the full term of
119 postrelease supervision originally imposed pursuant to subsection A of § 19.2-295.2 and may place the
120 defendant upon terms and conditions of postrelease supervision.

121 D. If any court, after a hearing, finds no cause to impose a term of incarceration related to a
122 violation of the terms and conditions of postrelease supervision, then any further hearing to impose a term
123 of incarceration related to a violation of the terms and conditions of postrelease supervision, based solely
124 on the alleged violation for which the hearing was held, shall be barred.

125 E. Nothing contained herein shall be construed to deprive any person of his right to appeal in the
126 manner provided by law to the circuit court having criminal jurisdiction from a judgment or order revoking
127 any suspended sentence.

128 **§ 19.2-306.1. Limitation on sentence upon revocation of suspension of sentence or revocation**
129 **of postrelease supervision; exceptions.**

130 A. For the purposes of this section, "technical violation" means a violation based on the
131 probationer's or postrelease supervisee's failure to (i) report any arrest, including traffic tickets, within
132 three days to the probation officer; (ii) maintain regular employment or notify the probation officer of any

133 changes in employment; (iii) report within three days of release from incarceration; (iv) permit the
134 probation officer to visit his home and place of employment; (v) follow the instructions of the probation
135 officer, be truthful and cooperative, and report as instructed; (vi) refrain from the use of alcoholic
136 beverages to the extent that it disrupts or interferes with his employment or orderly conduct; (vii) refrain
137 from the use, possession, or distribution of controlled substances or related paraphernalia; (viii) refrain
138 from the use, ownership, possession, or transportation of a firearm; (ix) gain permission to change his
139 residence or remain in the Commonwealth or other designated area without permission of the probation
140 officer; or (x) maintain contact with the probation officer whereby his whereabouts are no longer known
141 to the probation officer. Multiple technical violations arising from a single course of conduct or a single
142 incident or considered at the same revocation hearing shall not be considered separate technical violations
143 for the purposes of sentencing pursuant to this section.

144 B. If the court finds the basis of a violation of the terms and conditions of a suspended sentence or
145 probation or term of postrelease supervision is that the defendant was convicted of a criminal offense that
146 was committed after the date of the suspension, or has violated another condition other than (i) a technical
147 violation or (ii) a good conduct violation that did not result in a criminal conviction, then the court may
148 revoke the suspension or term of postrelease supervision and impose or resuspend any or all of that period
149 previously suspended, or impose a term of incarceration not exceeding the term of postrelease supervision
150 previously imposed, as the case may be.

151 C. The court shall not impose a sentence of a term of active incarceration upon a first technical
152 violation of the terms and conditions of a suspended sentence or probation or postrelease supervision, and
153 there shall be a presumption against imposing a sentence of a term of active incarceration for any second
154 technical violation of the terms and conditions of a suspended sentence or probation or postrelease
155 supervision. However, if the court finds, by a preponderance of the evidence, that the defendant committed
156 a second technical violation and he cannot be safely diverted from active incarceration through less
157 restrictive means, the court may impose not more than 14 days of active incarceration for a second
158 technical violation. The court may impose whatever sentence might have been originally imposed for a
159 third or subsequent technical violation. For the purposes of this subsection, a first technical violation based

160 on clause (viii) or (x) of subsection A shall be considered a second technical violation, and any subsequent
161 technical violation also based on clause (viii) or (x) of subsection A shall be considered a third or
162 subsequent technical violation.

163 D. The limitations on sentencing in this section shall not apply to the extent that an additional term
164 of incarceration is necessary to allow a defendant to be evaluated for or to participate in a court-ordered
165 drug, alcohol, or mental health treatment program. In such case, the court shall order the shortest term of
166 incarceration possible to achieve the required evaluation or participation.

167 **§ 19.2-306.2. Use of sentencing revocation report and discretionary sentencing guidelines in**
168 **cases of revocation of suspension of sentence and probation or revocation of postrelease supervision.**

169 A. In any proceeding conducted pursuant to § 19.2-306 for revocation of suspension of sentence
170 or probation imposed as a result of a felony conviction, or pursuant to § 19.2-306.01 for revocation of
171 postrelease supervision imposed as a result of a felony conviction, the circuit court shall have presented
172 to it a sentencing revocation report prepared on a form designated by the Virginia Criminal Sentencing
173 Commission. Such form shall indicate the nature of the alleged violation or violations and, if the defendant
174 is subject to supervised probation, the condition or conditions of probation that the defendant has allegedly
175 violated. The sentencing revocation report shall be prepared by the supervising probation agency that
176 initiated the request for the revocation hearing. If the defendant is not under active probation supervision
177 or postrelease supervision or the supervising probation agency did not initiate the request for the
178 revocation hearing, the sentencing revocation report shall be completed by an attorney for the
179 Commonwealth.

180 B. For every proceeding conducted pursuant to § 19.2-306 or 19.2-306.01 in which the defendant
181 is cited for violating a condition or conditions of supervised probation or postrelease supervision imposed
182 as a result of a felony conviction and such person is under the supervision of a state probation and parole
183 officer, the court shall have presented to it the applicable discretionary probation or postrelease
184 supervision violation guidelines pursuant to § 17.1-803.

185 1. The applicable discretionary probation or postrelease violation guidelines shall be prepared by
186 a state probation and parole officer on a form designated by the Virginia Criminal Sentencing

187 Commission. If a party other than a probation and parole officer initiated the request for the revocation
188 hearing, no probation or postrelease supervision violation guidelines are prepared and only the sentencing
189 revocation report required by subsection A shall be submitted to the court.

190 2. The court shall review and consider the suitability of the applicable discretionary probation or
191 postrelease violation guidelines. Before imposing sentence, the court shall state for the record that such
192 review and consideration have been accomplished and shall make the completed worksheets a part of the
193 record of the case.

194 3. In any proceeding in which the court imposes a sentence that is either greater than or less than
195 that indicated by the discretionary probation or postrelease violation guidelines, the court shall provide a
196 written explanation of such departure to be filed with the record of the case.

197 C. Within 30 days following the entry of a final order in a revocation proceeding, the clerk of the
198 circuit court shall prepare and send to the Virginia Criminal Sentencing Commission a copy or copies of
199 (i) the final order, (ii) the original sentencing revocation report, (iii) any applicable probation or
200 postrelease violation guideline worksheets prepared for such proceeding, and (iv) any written explanation
201 regarding a departure from the probation or postrelease violation guidelines pursuant to subsection B.

202 D. Failure to follow the provisions of this section or failure to follow these provisions in the
203 prescribed manner shall not be reviewable on appeal and shall not be used for the basis of any other post-
204 proceeding relief.

205 **§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.**

206 In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

207 1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and
208 eligibility requirements, which shall be published and posted for public review;

209 2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those
210 prisoners who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and
211 rehabilitation and the lesser culpability of juvenile offenders;

212 3. a. Release on parole for such time and upon such terms and conditions as the Board shall
213 prescribe, persons convicted of felonies and confined under the laws of the Commonwealth in any

214 correctional facility in Virginia when those persons become eligible and are found suitable for parole,
215 according to those rules adopted pursuant to subdivisions 1 and 2;

216 ~~b. Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and~~
217 ~~subsection A of § 19.2-295.2;~~

218 e. Notify the Department of Corrections of its decision to grant discretionary parole or conditional
219 release to an inmate. The Department of Corrections shall set the release date for such inmate no sooner
220 than 30 business days from the date that the Department of Corrections receives such notification from
221 the Chairman of the Board, except that the Department of Corrections may set an earlier release date in
222 the case of an inmate granted conditional release pursuant to § 53.1-40.02. In the case of an inmate granted
223 parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted
224 conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where
225 the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release
226 that such inmate has been granted discretionary parole or conditional release pursuant to § 53.1-40.01 or
227 53.1-40.02 or (ii) by telephone or other electronic means prior to such inmate's release that such inmate
228 has been granted conditional release pursuant to § 53.1-40.02 where death is imminent. Nothing in this
229 section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to
230 release on discretionary parole;

231 ~~d. c.~~ Provide that in any case where a person who is released on parole ~~or postrelease supervision~~
232 has been committed to the Department of Behavioral Health and Developmental Services under the
233 provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 the conditions of his parole ~~or postrelease~~
234 ~~supervision~~ shall include the requirement that the person comply with all conditions given him by the
235 Department of Behavioral Health and Developmental Services and that he follow all of the terms of his
236 treatment plan;

237 4. Revoke parole ~~and any period of postrelease~~ and order the reincarceration of any parolee ~~or~~
238 ~~felon serving a period of postrelease supervision~~ or impose a condition of participation in any component
239 of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et

240 seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his
241 parole ~~or postrelease supervision~~ or is otherwise unfit to be on parole ~~or on postrelease supervision~~;

242 5. Issue final discharges to persons released by the Board on parole when the Board is of the
243 opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of
244 society;

245 6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve
246 or remission of fine, or penalty when requested by the Governor;

247 7. Publish a statement regarding the action taken by the Board on the parole of prisoners within 30
248 days of such action. The statement shall list (i) the name of each prisoner considered for parole, (ii) the
249 offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed,
250 (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time
251 the prisoner has served, (vi) whether the prisoner was granted or denied parole, and (vii) the basis for the
252 grant or denial of parole. However, in the case of a prisoner granted parole, the information set forth in
253 clauses (i) through (vii) regarding such prisoner shall be included in the statement published in the month
254 immediately succeeding the month in which notification of the decision to grant parole was given to the
255 attorney for the Commonwealth and any victims; and

256 8. Ensure that each person eligible for parole receives a timely and thorough review of his
257 suitability for release on parole, including a review of any relevant post-sentencing information. If parole
258 is denied, the basis for the denial of parole shall be in writing and shall give specific reasons for such
259 denial to such inmate.

260 **§ 53.1-145. Powers and duties of probation and parole officers.**

261 In addition to other powers and duties prescribed by this article, each probation and parole officer
262 shall:

263 1. Investigate and report on any case pending in any court or before any judge in his jurisdiction
264 referred to him by the court or judge;

265 2. Supervise and assist all persons within his territory placed on probation or released on
266 postrelease supervision, secure, as appropriate and when available resources permit, placement of such

267 persons in a substance abuse treatment program which may include utilization of acupuncture and other
268 treatment modalities, and furnish every such person with a written statement of the conditions of his
269 probation or postrelease supervision and instruct him therein, and, in his discretion, assist any person
270 within his territory who has completed his postrelease supervision and requests assistance in finding a
271 place to live, finding employment, or in otherwise becoming adjusted to the community; if any such person
272 has been committed to the Department of Behavioral Health and Developmental Services under the
273 provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the conditions of probation shall include the
274 requirement that the person comply with all conditions given him by the Department of Behavioral Health
275 and Developmental Services, and that he follow all of the terms of his treatment plan;

276 3. Supervise and assist all persons within his territory released on parole ~~or postrelease supervision,~~
277 secure, as appropriate and when available resources permit, placement of such persons in a substance
278 abuse treatment program which may include utilization of acupuncture and other treatment modalities,
279 and, in his discretion, assist any person within his territory who has completed his parole, ~~postrelease~~
280 ~~supervision,~~ or has been mandatorily released from any correctional facility in the Commonwealth and
281 requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to
282 the community;

283 4. Arrest and recommit to the place of confinement from which he was released, or in which he
284 would have been confined but for the suspension of his sentence or of its imposition, for violation of the
285 terms of probation, post-release supervision pursuant to § 19.2-295.2 or parole, any probationer, person
286 subject to post-release supervision or parolee under his supervision, or as directed by the Chairman, Board
287 member or the court, pending a hearing by the Board or the court, as the case may be;

288 5. Keep such records, make such reports, and perform other duties as may be required of him by
289 the Director and the court or judge by whom he was authorized;

290 6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person
291 subject to post-release supervision pursuant to § 19.2-295.2 or parolee under his supervision who the
292 officer has reason to believe is engaged in the illegal use of controlled substances or marijuana, or the

293 abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations
294 governing the officer's exercise of this authority shall be promulgated by the Director;

295 7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the
296 Director and upon the certification of appropriate training and specific authorization by a judge of a circuit
297 court;

298 8. Provide services in accordance with any contract entered into between the Department of
299 Corrections and the Department of Behavioral Health and Developmental Services pursuant to § 37.2-
300 912;

301 9. Pursuant to any contract entered into between the Department of Corrections and the Department
302 of Behavioral Health and Developmental Services, probation and parole officers shall have the power to
303 provide intensive supervision services to persons placed on conditional release, regardless of whether the
304 person has any time remaining to serve on any criminal sentence, pursuant to Chapter 9 (§ 37.2-900 et
305 seq.);

306 10. Determine by reviewing the Department of Forensic Science DNA data bank sample tracking
307 system upon intake and again prior to release whether a blood, saliva, or tissue sample is stored in the data
308 bank for each person placed on probation or parole required to submit a sample pursuant to Article 1.1 (§
309 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 and, if a person's sample is not stored in the data bank,
310 require the person placed on probation or parole to submit a sample for DNA analysis;

311 11. For every offender accepted pursuant to the Interstate Compact for the Supervision of Adult
312 Offenders (§ 53.1-176.1 et seq.) who has been convicted of an offense that, if committed in Virginia,
313 would require the offender to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18
314 of Title 19.2, take a sample or verify that a sample has been taken and accepted into the data bank for
315 DNA analysis in the Commonwealth;

316 12. Monitor the collection and payment of restitution to the victims of crime for offenders placed
317 on supervised probation;

318 13. Prior to the release from supervision of any offender on probation as of July 1, 2019, review
319 the criminal history record of the offender at least 60 days prior to release from supervision, or

320 immediately if the offender is scheduled to be released from supervision within less than 60 days, to
321 determine whether all offenses for which the offender is being supervised appear on such record and, if
322 any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to §
323 19.2-390 does not appear, (i) take and provide fingerprints and a photograph of the offender to the Central
324 Criminal Records Exchange to be classified and filed as part of the criminal history record information
325 pursuant to subsection D of § 19.2-390 and (ii) provide written or electronic notification to the Central
326 Criminal Records Exchange within the Department of State Police that such offense does not appear on
327 the offender's criminal history record; and

328 14. Upon intake of any offender on or after July 1, 2019, (i) take and provide fingerprints and a
329 photograph of the offender to the Central Criminal Records Exchange to be classified and filed as part of
330 the criminal history record information pursuant to subsection D of § 19.2-390, (ii) review the criminal
331 history record of the offender to determine whether all offenses for which the offender is being supervised
332 appear on such record, and (iii) if any such offense that is required to be reported to the Central Criminal
333 Records Exchange pursuant to § 19.2-390 does not appear, provide written or electronic notification to
334 the Central Criminal Records Exchange within the Department of State Police that such offense does not
335 appear on the offender's criminal history record.

336 Nothing in this article shall require probation and parole officers to investigate or supervise cases
337 before general district or juvenile and domestic relations district courts.

338 **§ 53.1-149. Arrest of probationer or felon serving a period of postrelease supervision without**
339 **warrant; written statement.**

340 Any probation officer appointed pursuant to this chapter may arrest a probationer or felon serving
341 a period of postrelease supervision without a warrant, or may deputize any other officer with power to
342 arrest to do so, by a written statement setting forth that the probationer or felon serving a period of
343 postrelease supervision has, in the judgment of the probation officer, violated one or more of the terms or
344 conditions upon which the probationer or felon serving a period of postrelease supervision was released
345 on probation or postrelease supervision. Such a written statement by a probation officer delivered to the
346 officer in charge of any local jail or lockup shall be sufficient warrant for the detention of the probationer

347 or felon serving a period of postrelease supervision. Any officer deputized upon receipt of the written
348 statement shall, in accordance with § 19.2-390, enter, or cause to be entered, the person's name and other
349 appropriate information required by the Department of State Police into the "information systems" known
350 as the Virginia Criminal Information Network (VCIN), established and maintained by the Department
351 pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Such information shall be deemed a warrant authorizing
352 the arrest of the person anywhere in the Commonwealth.

353 **§ 53.1-157. Parolees to comply with terms; furnishing copies.**

354 Each parolee ~~or felon serving a period of postrelease supervision~~ while on parole ~~or period of~~
355 ~~postrelease supervision~~ shall comply with such terms and conditions as may be prescribed by the Board.
356 When any prisoner is released on parole ~~or postrelease period of supervision~~, the Board shall furnish the
357 parolee and the probation and parole officer having supervision of the parolee ~~or felon serving a period of~~
358 ~~postrelease supervision~~ a copy of the terms and conditions of ~~the parole or postrelease period of~~
359 ~~supervision~~ and any changes which may from time to time be made therein.

360 **§ 53.1-161. Arrest and return of parolee; warrant; release pending adjudication of violation.**

361 The Chairman or any member of the Board may at any time upon information or a showing of a
362 violation or a probable violation by any parolee ~~or felon serving a period of postrelease supervision~~ of any
363 of the terms or conditions upon which he was released on parole ~~or postrelease period of supervision~~, issue
364 or cause to be issued, a warrant for the arrest and return of the parolee ~~or felon serving a period of~~
365 ~~postrelease supervision~~ to the institution from which he was paroled, or to any other correctional facility
366 which may be designated by the Chairman or member. However, a determination of whether a parolee or
367 felon serving a period of postrelease supervision returned to a correctional facility pursuant to this section
368 shall be returned to a state or local correctional facility shall be made based on the length of the parolee's
369 original sentence as set forth in § 53.1-20 ~~or the period of postrelease supervision as set at sentencing.~~
370 Each such warrant shall authorize all officers named therein to arrest and return the parolee to actual
371 custody in the facility from which he was paroled, or to any other facility designated by the Chairman or
372 member.

373 In any case in which the parolee ~~or felon serving a period of postrelease supervision~~ is charged
374 with the violation of any law, the violation of which caused the issuance of such warrant, upon request of
375 the parolee or his attorney, the Chairman or member shall as soon as practicable consider all the
376 circumstances surrounding the allegations of such violation, including the probability of conviction
377 thereof, and may, after such consideration, release the parolee, pending adjudication of the violation
378 charged.

379 **§ 53.1-162. Arrest of parolee without warrant; written statement.**

380 Any probation and parole officer may arrest a parolee ~~or felon serving a period of postrelease~~
381 ~~supervision~~ without a warrant or may deputize any other officer with power of arrest to do so by a written
382 statement setting forth that the parolee ~~or felon serving a period of postrelease supervision~~ has, in the
383 judgment of the probation and parole officer, violated one or more of the terms or conditions of his parole
384 ~~or postrelease period of supervision~~. Such a written statement by a probation and parole officer delivered
385 to the officer in charge of any state or local correctional facility shall be sufficient warrant for the detention
386 of the parolee ~~or felon serving a period of postrelease supervision~~. Any officer deputized upon receipt of
387 the written statement shall, in accordance with § 19.2-390, enter, or cause to be entered, the person's name
388 and other appropriate information required by the Department of State Police into the "information
389 systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by
390 the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Such information shall be deemed a
391 warrant authorizing the arrest of the person anywhere in the Commonwealth.

392 **§ 53.1-164. Procedure for return of parolee.**

393 When any parolee ~~or felon serving a period of postrelease supervision~~ is returned to any facility in
394 accordance with the provisions of § 53.1-161, he shall be held in accordance with rules of the Director
395 and subject to further action of the Parole Board. The officer in charge of the facility shall see that the
396 Parole Board is notified promptly of each such parolee's ~~or felon's~~ return.

397 **§ 53.1-165. Revocation of parole; hearing; procedure for parolee supervised in another state;**
398 **appointment of attorney.**

399 A. Whenever any parolee ~~or felon serving a period of postrelease supervision~~ is arrested and
400 recommitted as provided herein, a preliminary hearing to determine probable cause that such parolee has
401 violated one or more of the terms or conditions upon which he was released on parole ~~or postrelease period~~
402 ~~of supervision~~ shall be held by any hearing officer who has been designated as such by the Director of the
403 Department to conduct such hearings. However, if a nolle prosequi is to be entered in a case where a
404 parole violation is alleged, no preliminary hearing shall be required.

405 Upon request of the hearing officer, the attorney for the Commonwealth of the jurisdiction within
406 which such hearings are to be held shall request the circuit court of such jurisdiction to appoint one or
407 more discreet attorneys-at-law to represent parolees in any proceedings held before him. Each attorney so
408 appointed shall be available to serve upon request of the hearing officer. The term of each attorney's
409 appointment shall continue until such time as a successor may be appointed. A hearing officer shall be
410 authorized to issue subpoenas requiring the attendance of witnesses and the production of records,
411 memoranda, papers and other documents before him and to administer oaths and to take testimony
412 thereunder.

413 Upon a finding of probable cause by the hearing officer, the Board or its authorized representative
414 shall conduct a hearing, consider the case and act with reference thereto within a reasonable time
415 thereafter. Upon request of the Board, the attorney for the Commonwealth of the jurisdiction within which
416 such hearings are to be held shall request the circuit court of that jurisdiction to appoint one or more
417 discreet attorneys-at-law to represent parolees in proceedings held or to be held before the Board. Each
418 attorney shall be available to serve upon request of the Board. The term of each attorney's appointment
419 shall continue until such time as a successor may be appointed. The Board, in its discretion, may revoke
420 the parole and order the reincarceration of the prisoner for the unserved portion of the term of
421 imprisonment originally imposed upon him, or it may reinstate the parole either upon such terms and
422 conditions as were originally prescribed, or as may be prescribed in addition thereto or in lieu thereof.
423 When a parole violation is based on a new felony conviction for which the individual has been sentenced
424 to two or more years, excluding any time of said sentence which has been suspended, any individual Board

425 member, so authorized by the Board, may after such hearing revoke the individual's parole as otherwise
426 provided herein.

427 Upon revocation of parole for any felony offense, the Board or its authorized representative shall
428 order that the Department of Corrections take fingerprints and a photograph of the person for each offense
429 and transmit such information to the Central Criminal Records Exchange pursuant to subsection D of §
430 19.2-390.

431 B. In cases in which a parolee ~~or felon serving a period of postrelease supervision~~ is in another
432 state, any hearing officer who has been designated as such by the Director of the Department may be sent
433 to that state to conduct a preliminary hearing to determine probable cause that the parolee has violated one
434 or more of the terms and conditions upon which he was released upon parole.

435 C. Any attorney-at-law appointed pursuant to this section shall be paid as directed by the court
436 making the appointment, from funds appropriated for court costs and expenses, reasonable compensation
437 on an hourly basis and necessary expenses, based upon a report to be furnished to it by such attorney. In
438 the event an attorney-at-law is appointed in another state, he shall be paid out of funds appropriated to the
439 Department.

440 **2. That the provisions of this act shall become effective on July 1, 2024.**

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